

DETERMINATION OF APPEALS UNDER
Section 16 of *The Municipal Board Act* and Section 216 of *The Cities Act*

Appeal Numbers: AAC 2015-0006 (Lead), 2015-0007 to 0033, inclusive (Revised)

Date and Location: January 28, 2016 – Regina, SK

Various
(as represented by Altus Group Limited [Altus])

Appellants

- and -

City of Regina

Respondent

APPEARED FOR:

The Appellant: Archie Fieldgate, Senior Consultant
Ryan Simpson, Senior Analyst

The Respondent: Gerry Krismer, Assistant City Assessor
Mike Schulkowsky, Senior Assessor

HEARD BEFORE: Lorna Cottenden, Panel Chair
Lee Fuller, Member
Brandee Murdoch, Member

INTRODUCTION:

[1] The 2015 assessments for the properties under appeal are:

Appeal #	Roll Number	Legal Description	Original Assessed Value
2015-0006	10018652	Lots 14-16, Block 9, Plan 65R29319	\$4,424,200
2015-0007	10250233	Lots Y & Z, Block 13, Plans 84R54317 & 81R51142	\$7,670,800
2015-0008	10013998	Lot N, Block 14, Plan 77R18606	\$2,315,200
2015-0009	10018690	Lots O & P, Block 15, Plans 79R49513 & 101193083	\$2,412,800
2015-0010	10018701	Lot F, Block 15, Plan 75R42926	\$15,604,500
2015-0011	10112642	Lot 4, Block 26, Plan 88R73430	\$4,097,800
2015-0012	10201133	Lot 1A, Block 41A, Plan 102021635	\$3,767,200
2015-0013	10018674	Lots 9 & 10, Block 11, Plan 65R29319	\$5,178,800
2015-0014	10022447	Lot 5, Block 1, Plan 60R11127	\$2,208,100
2015-0015	10013951	Lot 1, Block 18, Plan 75R18889	\$3,043,500
2015-0016	10018672	Block Y, Plan 72R33395	\$7,709,000
2015-0017	10018734	Lot Y, Block 13, Plan 94R12353	\$3,335,600
2015-0018	10013924	Lots 5 & 6, Block 18, Plan 75R18889	\$1,666,400
2015-0019	10033930	Lot 2, Block 97, Plan GC1279	\$5,583,500
2015-0020	10247034	Block D, Plan 102076309	\$54,826,400
2015-0021	10022485	Lot 17, Block 12, Plan 75R00730	\$3,817,400
2015-0022	10022119	Block B, Plan 90R51768	\$4,268,200
2015-0023	10236634	Lots 2 & 6, Block 192, Plans FF4502 & 102063024	\$2,476,800
2015-0024	10033463	Lot 2, Block G, Plan FS2093	\$2,415,800
2015-0025	10018763	Block U1, Plan 76R40789	\$1,812,000
2015-0026	10241453	Lot XX, Block 10, Plan 102065802	\$5,614,100
2015-0027	10028466	Block D, Plan 73R47512	\$5,734,000
2015-0028	10013949	Lot A, Block 18, Plan 76R04208	\$4,446,700
2015-0029	10022143	Lot 12, Plan FN5273	\$4,644,000
2015-0030	10022117	Block 10, Plan FN5273	\$5,763,300
2015-0031	10033440	Blocks E & F, Plan AG4178	\$2,301,200
2015-0032	10018625	Blocks C, C & T, Plans FA4603, 101221142 and 84R22521	\$5,051,600
2015-0033	10018759	Lot A, Block 13, Plan 75R00624	\$4,820,700

[2] The properties are non-regulated, commercial warehouses. The Assessor used the income approach to value the properties.

[3] The Board upheld the original assessed values. Altus asks the Committee to find in favour of a higher capitalization (cap) rate, which will result in lower assessed values.

ISSUES:

[4] a) Did the Board make an error in its determination of the effective age and net operating income (NOI) of 144 Henderson Drive?

- b) Did the Board make an error when it excluded the sale of 1500 - 5th Avenue from the cap rate calculation?

DECISION:

- [5] The Committee finds the Board did not make an error in its determination of the effective age and NOI of 144 Henderson Drive and the Board did not make an error when it excluded the sale of 1500 - 5th Avenue from the cap rate calculation.

PROCEDURAL MATTERS:

Lead Appeal

- [6] The parties agreed the Committee would hear all appeals in one hearing and that AAC 2015-0006 was the lead appeal. The parties did not indicate any differences between the lead appeal and any of the others in the grouping of appeals. The Panel Chair advised that the Committee would issue one decision for all appeals.

PRELIMINARY MATTERS:

- [7] Altus's notice of appeal to the Committee included nine grounds, which overlapped each other. Altus withdrew the second ground. The Panel Chair clarified the issues with the parties and they agreed the issues for the Committee to decide are as stated in paragraph [4] above.

Issue a): Did the Board make an error in its determination of the effective age and net operating income (NOI) of 144 Henderson Drive?

POSITIONS OF THE PARTIES:

- [8] Altus:
- a) The Board was wrong when it concluded Altus's intent was to reduce the NOI and cap rate for 144 Henderson Drive.
 - b) The Board ignored evidence about the Assessor not including building area in calculating the effective age of 144 Henderson Drive.
 - c) The Board was wrong when it concluded that Saskatchewan Municipal Board (SMB) decisions, the Market Value Assessment in Saskatchewan Handbook (Handbook), International Association of Assessing Officers (IAAO) definitions and procedures and UBC Real Estate sources have no relevance for the City in property tax assessment calculations.

- [9] The City:
- a) The Board did not ignore evidence presented by either party.
 - b) The Board did not conclude the Handbook and other materials had no relevance for the City.
 - c) The Appellant used outdated field sheets.
 - d) Assessors do not use mezzanines in the calculations for effective age and renovations do not change effective age, although additions can change effective age.

ANALYSIS:

- [10] The effective age of a property can influence assessments. Altus's documentation to the Board shows if the effective age on the subject property is 1990, it will change the market rent and the cap rate on the sale from 9.43% to 11.02%.
- [11] We cannot find any references that support Altus's positions regarding 144 Henderson Drive.
- [12] The Board's decision does not include any references to conclusions regarding Altus's intent. Parties may have their own beliefs as to what was or was not in the minds of Board panel members; however, this is something we simply cannot know unless a Board, or any appeal body, specifically states it in its decision.
- [13] Mr. Simpson's calculations were different than the City's and other than saying he did not have current information, he did not challenge the City's information about 144 Henderson Drive. In order to reach a threshold of 1990, his calculations for effective age must be completely accurate and they were not.
- [14] The Board's record shows that Mr. Simpson used 2003 field sheets that contained outdated and unreliable information. The transcript of the Board's hearing indicates he did not realize Altus had more current field sheets for 2013. However, Altus's submission to the Committee indicated the 2013 field sheets "illustrated inaccuracies." These statements are inconsistent. For example, if someone does not know that more current field sheets exist, they would not know whether the sheets are accurate or not.
- [15] The Committee agrees with Altus that the base date is January 1, 2011; however, other information was available after 2003. There seems to be concern from Altus regarding cost and that Altus believes the Board suggested "... Altus pay for and use Field sheets after the base date" The Board did not make that suggestion.

- [16] As the agent for the owner, Altus can access information for the subject property. If there is any concern other than access, such as confidentiality, appellants should make requests in writing and the respondent can reply based on the circumstances of the case (AAC 2013-0106, paragraph 29).
- [17] The Board did not conclude that SMB decisions and various reference guides have no relevance for the City in property tax assessment calculations. The Board's decision indicates these things are "relevant" (at paragraph 6).
- [18] The Committee agrees with the City that mezzanines are not used in calculations for effective age and renovations do not change effective age. Additions can change effective age. The Committee notes that even if the Assessor included mezzanines in the calculations for effective age, the threshold would not have been 1990.
- [19] Finally, Altus referred to using outlier trimming for three data points. The application of outlier trimming in this appeal is confusing to us because if one is going to trim data, one does it first on the whole data pool, not on just three data points.
- [20] The Committee finds the Board did not make an error in its determination of the effective age and NOI of 144 Henderson Drive.

Issue b): Did the Board make an error when it excluded the sale of 1500 - 5th Avenue from the cap rate calculation?

POSITIONS OF THE PARTIES:

[21] Altus:

- a) 1500 - 5th Avenue should be included in the sales array and the cap rate applied to all large warehouses should increase.

[22] The City:

- a) At no time was it alleged that the Assessor was wrong in determining that warehouses with 25% or more unheated area are atypical.
- b) The Appellant alleges wrongly that because the Assessor made an adjustment for unheated space in the rental model that somehow no further adjustment was required in the cap rate.

ANALYSIS:

- [23] We cannot find any references that support Altus's positions regarding 1500 - 5th Avenue and believe there may be some confusion regarding rental model adjustments and cap rates. The Committee agrees with the City that rental models and cap rates show two different things. Rental models show what tenants pay for renting property and cap rates show what buyers pay for purchasing property/selling prices.
- [24] The City's data shows that a warehouse property with 85% unheated space is atypical in the City. There is no evidence that suggests otherwise.
- [25] The Committee finds the Board did not make an error when it excluded the sale of 1500 - 5th Avenue from the cap rate calculation.

Property Valuation


- [26] *The Cities Act*, SS 2002, c C-11.1 (the *Act*) states the application of the Market Valuation Standard (MVS) "bear a fair and just proportion to the market value of similar properties as of the applicable base date" [s. 165(5)].
- [27] The MVS is achieved when the assessed value of property:
- i. **is prepared using mass appraisal;**
 - ii. **is an estimate of the market value of the estate in fee simple in the property;**
 - iii. **reflects typical market conditions for similar properties;**
 - iv. **meets quality assurance standards established by order of the agency [SAMA] [s. 163(f.1), the Act].**
- [28] The Committee finds there is no evidence to suggest the Assessor did not use similar appraisal methods for all warehouse properties in the City. There is also no evidence that equity was not met or that the MVS did not occur.

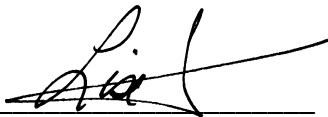
CONCLUSION:

[29] The Committee dismisses the appeal for both issues. The Committee upholds the original 2015 property valuations as listed in paragraph [1].

Dated at REGINA, Saskatchewan this 14th day of March, 2016.

Saskatchewan Municipal Board – Assessment Appeals Committee

Per: 
Lorna Cottenden, Panel Chair

Per: 
Lise Gareau, Director