
RECORD OF DECISION

CITY OF SASKATOON, BOARD OF REVISION

APPEAL NO.: 057-2019

ROLL NO: 435007100

RESPONDENT: City of Saskatoon

In the matter of an appeal to the City of Saskatoon, Board of Revision by:

APPELLANT: Altus Group Limited on behalf of Concorde Group Corp.

Respecting the assessment of:

Legal Description: Parcel(s): 119084441

Civic Address: 2907/2915 Faithfull Avenue

for the year 2019

BEFORE Mr. Adrian Deschamps, Chair, Board of Revision
Ms. June Bold, Member, Board of Revision
Mr. Cameron Choquette, Member, Board of Revision

Appeared for the Appellant Mr. Jesse Faith, Altus Group Limited
Mr. Garry Coleman, Altus Group Limited – May 22 & July 25, 2019
Mr. Ryan Simpson, Altus Group Limited – May 21, 2019
Dr. Andrei Volodin, Professor of Statistics, University of Regina – May 21, 2019

Appeared for the Respondent Mr. Travis Horne, Revaluation and Assessment Appeal
Coordinator, Assessment & Valuation
Ms. Amy Huang, Assessment Research Analyst, Assessment
& Valuation – May 21, 22 & July 25, 2019

The appeal was heard in Council Chambers, City Hall, in the City of Saskatoon on July 26, 2019.

This is an appeal of the assessment of a **commercial** property in the City of Saskatoon. In this decision, we refer to the Board of Revision Panel as “the Board” or “the Panel”, to *The Cities Act* as *The Act*, and to the Saskatchewan Assessment Management Agency Assessment Manual as “the Manual” and the Saskatchewan Assessment Management Agency Market Value Handbook as “the Handbook”.

PRELIMINARY ISSUES:

- [1] The parties were advised that the proceedings were being recorded for the purposes of the Board and the Panel Clerk. The Chair introduced the Board members and the Panel Clerk and briefly outlined the procedures that would be followed during the course of the hearing.
- [2] At the request of the Respondent, and pursuant to Section 208 of *The Cities Act*, the Chair ordered that the hearing be recorded by Royal Reporting Services. A Confidentiality Order was noted and signed for Exhibit C(A)1, “Appendix F – Property Summary Report”.
- [3] The parties to the appeal agreed that with regard to Grounds 1 to 4, all evidence and argument from appeal BOR 36-2019 would be carried forward into this appeal.

GROUND AND ISSUES:

The grounds and issues for this appeal as identified in the Notice of Appeal (Exhibit A.1) are as follows:

1. The assessor erred in the calculation of the property assessment when applying the current capitalization (CAP) rate.
2. The assessor has failed to achieve the market valuation standard.
3. The assessor has failed to maintain equity when determining the current assessment of the subject property.
4. The assessor has failed to apply the findings of SMB decision AAC 2017-0225 in determining the current assessment.
5. The estimated net operating income is in error.

EXHIBITS:

** Denotes Exhibits **not** submitted within the prescribed time as provided in Section 200(1) of *The Cities Act*

- A.1 Notice of Appeal from Altus Group to the Board of Revision, received February 4, 2019.
- A.2 **COMMON DOCUMENT** - Appellant’s submission to the Board of Revision, (Acklands-Granger Inc. Et Al), received April 30, 2019 (Note: Document includes Appendix A to V and Addenda 1 to 5). (**FOR USE WITH:** 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 137, 138, ,139, 140, 145,146,147, 149, 154, 155, 156, 158, 160, 161, 165, 168, 169, 172, 174, 175, 178, 180, 184, 185).

- A.3 Appellant's submission to the Board of Revision, (Concorde Group of Companies), received April 30, 2019. **(exclusive to 57-2019)**
- A.4 Document A.4 was not submitted for this file.
- A.5 Document A.5 was not submitted for this file.
- A.6 **COMMON DOCUMENT** - Appellant's rebuttal document to the Board of Revision, (Acklands-Granger Inc. Et Al), received May 15, 2019 **(FOR USE WITH: 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 137, 138, ,139, 140, 145,146,147, 149, 154, 155, 156, 158, 160, 161, 165, 168, 169, 172, 174, 175, 178, 180, 184, 185).**
- A.7 **COMMON DOCUMENT** - Appellant's submission titled "Expert Will Say Statement & Curriculum Vitae" submitted to the Board of Revision, received May 15, 2019 **(FOR USE WITH: 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 137, 138, ,139, 140, 145,146,147, 149, 154, 155, 156, 158, 160, 161, 165, 168, 169, 172, 174, 175, 178, 180, 184, 185).**
- C(A)1 **CONFIDENTIAL DOCUMENT** submitted by the Appellant (F) received April 30, 2019. **(FOR USE WITH: 57-2019 ONLY).**
- B.1 **COMMON DOCUMENT** – Email from Assessment & Valuation to Altus Group dated May 3, 2019 **(FOR USE WITH: 41, 46, 57, 75, 80, 87, 122, 135, 136, 145, 149, 140, 172, 161, 158, 154, 178)**
- R.1 **COMMON DOCUMENT** – submitted by the City Assessor titled "Warehouse & Automotive Response 2019 Assessment", received May 13, 2019. **(FOR USE WITH: 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 75, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 136, 137, 138, 139, 140, 145, 147, 149, 154, 155, 156, 158, 160, 161, 163, 164, 165, 168, 169, 172, 174, 175, 178, 180, 181, 184, 185)**
- R.2 **COMMON DOCUMENT** –submitted by the City Assessor titled "2019 General Law and Legislation Brief", received May 13, 2019. **(FOR USE WITH: 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 75, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 136, 137, 138, 139, 140, 145, 147, 149, 154, 155, 156, 158, 160, 161, 163, 164, 165, 168, 169, 172, 174, 175, 178, 180, 181, 184, 185)**
- R.3 **COMMON DOCUMENT** –submitted by the City Assessor titled "2019 Expert Witness Law and Legislation Brief", received May 13, 2019. **(FOR USE WITH: 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 75, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 136, 137, 138, 139, 140, 145, 147, 149, 154, 155, 156, 158, 160, 161, 163, 164, 165, 168, 169, 172, 174, 175, 178, 180, 181, 184, 185)**
- R.4 **COMMON DOCUMENT** –submitted by the City Assessor titled "2019 Notice of Appeal Law and Legislation brief", received May 13, 2019.

(FOR USE WITH: 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 75, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 136, 137, 138, 139, 140, 145, 147, 149, 154, 155, 156, 158, 160, 161, 163, 164, 165, 168, 169, 172, 174, 175, 178, 180, 181, 184, 185)

R.5 **COMMON DOCUMENT** –submitted by the City Assessor titled “2019 Response Evidence Law and Legislation Brief”, received May 13, 2019.

(FOR USE WITH: 36, 41, 44, 46, 47, 48, 56, 57, 65, 72, 75, 87, 88, 90, 91, 92, 115, 118, 129, 132, 134, 135, 136, 137, 138, 139, 140, 145, 147, 149, 154, 155, 156, 158, 160, 161, 163, 164, 165, 168, 169, 172, 174, 175, 178, 180, 181, 184, 185)

R.6 **COMMON DOCUMENT** –submitted by the City Assessor titled “Salient Facts & Field Sheets”, received May 13, 2019.

(FOR USE WITH: 41, 44, 46, 47, 48, 56, 57, 65, 72, 75, 80, 87, 88, 90, 91, 92, 96, 97, 98, 99, 100, 101, 115, 118, 122, 129, 132, 134, 135, 136, 137, 138, 139, 140, 144, 145, 147, 149, 154, 155, 156, 158, 160, 161, 164, 165, 168, 169, 172, 174, 175, 178, 180, 184, 185)

SALIENT FACTS:

Appeal Number	57-2019
Roll Number	435007100
Legal Description	119084441
Predominant Property Type	3701
Zoning	IL1
Current Assessment	12,513,100
Percentage of Assessment	1.00
Current Taxable Assessment	12,513,100

Grounds 1 to 4:

Begin carry forward from Appeal 36-2019

APPELLANT’S EVIDENCE AND ARGUMENTS:

- [4] The Appellant’s position was that the issue before the Panel was the inequity in the assessments of some large warehouses in Saskatoon. That inequity had arisen because the Assessor’s stratification of those properties had been based first on location. As well, the Assessor had used smaller properties as comparables. The neighborhood stratifications in the Assessor’s current model were based on narrow market segments with size breaks of 7,000 and 24,000 sqft in selective geographic neighborhoods. This narrowing should be removed so as to allow the stratification to be more reflective of a division of properties into groups that had similar traits and value characteristics.

- [5] The Assessor had combined several neighbourhoods into the current cap rate group “3” and “7”. This group represented stratification for warehouses that were larger than 7,000 sqft and had site coverage of either less than or greater than 27%. All of the properties under appeal fell into one of the two groups relative to their site coverage.
- [6] The Appellant found the neighbourhood stratification used by the Assessor to be unsupported. The 2013 revaluation had stratified large warehouses city wide so that those warehouses similar in size both north and south of 51st Street were assessed using the same cap rate. In the current assessment model, location took precedent over building size. The result was that, dependent upon the neighbourhood and site coverage, a warehouse property greater than 24,000 sqft could be assessed with a cap rate of either 5.50%, 6.60% or 8.64%.
- [7] One of the sales used by the Assessor to develop the 6.60% cap rate was the property located at 118 Tubby Crescent. That property, located in NBHD 30017 (north of 51st Street), was greater than 24,000 sqft and had a calculated cap rate of 8.12%. The sales of similarly sized properties from NBHD 30023, south of 51st Street, had cap rates of 7.22%, 8.49%, 8.67% and 8.95%. This indicated that there was no significant division north or south of 51st Street for properties greater than 24,000 sqft.
- [8] The Appellant acknowledged that rental markets and sales markets may or may not be similar, but in the case of warehouses greater than 24,000 sqft north and south of 51st Street they were similar. The majority of the six sales used by the Assessor to develop the 8.64% cap rate were located in NBHD 30023, south of 51st Street. The Assessor’s model market rent for those properties was based on a \$9.54/sqft constant with no adjustment for location. The Tubby Crescent sale located in NBHD 30017, north of 51st Street, also had a model market rent based on a \$9.54/sqft constant with no adjustment for location. Its market cap rate however, was only 6.60% because the Assessor had placed it in Group 7.
- [9] Once the Assessor determined that the stratification of warehouse properties would consider location first, those large warehouses >24,000 sqft that were excluded from Market Area 5 became subject to valuations based on sales of smaller properties. This resulted in the significant discrepancy in the assessed value of those properties that found themselves in the 5.50% or 6.60% cap rate groups.
- [10] Statistical analysis for the Appellant was done by Mr. Simpson. Using the Mann-Whitney U test, he analyzed the sales (with the exception of Group 6) by building size without regard to location. Initially, the sales were arrayed city-wide with a >24,000 sqft break point without consideration of site coverage. The result indicated, with a 95% confidence level, that the two groups were different in the market place. That analysis produced a cap rate of 8.31%.
- [11] A second analysis, again using the Mann-Whitney U test, removed sales with site coverage below 17%. The result showed a higher level of confidence and demonstrated that a city-wide stratification of warehouses >24,000 sqft with >17% site coverage was warranted and further, that it reflected the analysis submitted in the Maple Leaf appeal.

[12] *Mr. Simpson's results were then sent to Dr. Volodin by the Tax Agent for his review and consideration. Dr. Volodin, after the Chair qualified him as an expert in mathematics and statistics, responded to questions from the Tax Agent as follows:*

- Mann-Whitney, in this situation, was the best test for the cap rate variable to determine comparability in neighbourhood stratification because it was nonparametric.
- The graphical analysis submitted in Exhibit A.2 (Appendix – Tab U) indicated that cap rates increased as building size increased. The regression analysis confirmed that a size adjustment for large warehouses was warranted.
- The analysis for both sales groups, all sales city-wide and the removal of sales with <17% site coverage, was statistically significant.
- The data from Mr. Simpson was “perfect” with a significant number of observations below 7,000 sq. ft., between 7,000 and 24,000 sq. ft., and over 24,000 sq.ft. He did not see any evidence to indicate that the North Industrial area was acting significantly different than the South.

[13] *The statistical analysis for the Appellant that was done by Mr. Simpson and then sent to Dr. Volodin by the Tax Agent was also sent to Mr. William Levis for his review and consideration. In a letter dated May 14, 2019 (Exhibit A.2: App. BB) he was asked to respond to nine questions regarding the validity of the analysis. His written responses to those questions were part of the Appellant's written submission (Exhibit A.2: App. CC). Mr. Levis contributed to the hearing by telephone after the Chair qualified him as an expert in mathematics and statistics. He responded to a request from the Tax Agent for a summary of his thoughts on the analysis as follows:*

- Mann-Whitney U is an expert nonparametric test that can be used for a continuous variable against a “yes-no break” variable, where ‘yes’ indicates that a property has a certain characteristic and ‘no’ indicates that it does not. The test has been around since the 1940's and can be used for a variety of things to test whether or not there is an equal distribution of the characteristics under study.
- Size was significant in the regression analysis sample sent to him – the neighbourhood variable was eliminated because it fell under the threshold of significance. Statistically speaking, there was no difference between the neighbourhoods as indicated by that variable.

[14] The summary / conclusion of Mr. Levis' written response to the Tax Agent's questions was: (Exhibit A.6 App. CC)

- 9) *In my opinion, based on the analysis provided*
- a) There is a difference in capitalization rates between large warehouses and small warehouses*
 - b) There is no significant difference between the neighbourhoods north and south of 51st Street*
 - c) There is no significant difference between the large warehouse neighbourhoods by location city wide*

- [15] The argument put forward here was the same as in 2017-18. The inequities in the assessment of warehouses >24,000 sqft could be remedied by expanding Market Area 5 to include NBHDs 30006, 30017, 30021 and 30026. In the alternative, there had been submitted an analysis of size on a city-wide basis as was considered and accepted in the Maple Leaf decisions BOR 60-2017, BOR 244-2018 and SMB 2017-0225. Those analyses were also done by nonparametric testing.

ASSESSOR'S EVIDENCE & ARGUMENTS:

Ms. Amy Huang was qualified by the Chair as an expert witness in statistical analysis. The Tax Agent requested that the record show that she was an employee of the City with the Assessment Office and that it was unclear how, or if, she was involved with the creation and analysis of the assessments under appeal.

- [16] In response to questions from Mr. Horne, Ms. Huang said that she had done the rent model for the warehouse valuation for the current cycle. She participated in the time adjustment, but did not do the cap rate analysis. Prior to the hearing she had reviewed the Appellant's statistical analysis (Appendices U and V of Exhibit A.2, Altus' 20-day submission).
- [17] Regarding p. 489 of that document, Mr. Simpson's suggestion that there was a size influence at 24,000 sqft was "weird" because size was a continuous variable but he transformed it into a binary variable. She would not have done it that way.
- [18] Regarding Mr. Simpson's finding that the AO neighbourhood was statistically insignificant, the variable he used had to be related to p. 491 (*All warehouse sales by size with <17% site coverage (group 1,2,3,4,5,7)*). It was not proper to run that type of regression. She said she was only able to replicate the Agent's analysis by putting the AO neighbourhood in as a nominal variable which was wrong.

The remainder of the Assessor's evidence was given by Mr. Horne.

- [19] The Tax Agent had alleged that the Assessor has failed to use similar properties to develop the assessments. The application of the market value standard required that "the assessments bear a fair and just proportion to the market value of similar properties". After a review of the Tax Agent's submissions the Assessor could find no evidence of what "market value" was or what the "market value of similar properties" was. Without evidence of what he believed "market value" or "similar properties" to be, the Agent had failed to demonstrate error.
- [20] The Handbook did not limit the Assessor to a narrow market segment of only one geographic neighbourhood. The Assessor's approach developed models based on the term "neighbourhood" meaning Market Area Neighbourhood which at times may only represent a geographic area. Both the Handbook and the Cost Guide used the term "neighbourhood" to refer to any type of market stratification or grouping developed by the Assessor.

- [21] The Tax Agent had suggested that size should be the first consideration in the stratification of the subject properties. The IAAO has said otherwise: in a neighbourhood there is an environment that has a direct and immediate effect on value. That neighbourhood will be a geographic area in which the properties are homogeneous and share important location characteristics. That is what the Assessor did. He looked at a possible basket of value driven characteristics and determined that he should first consider location, then size, then site coverage.
- [22] Building size was not commonly accepted as the primary characteristic for assessment purposes. In reviewing Exhibit R.1 he noted:
- p.62 – (excerpt from IAAO textbook) Location was its own bold heading, Size was subject to Improvement
 - p.72 – (excerpt from a UBC textbook- Important factors in demand analysis in the industrial market) all items related in some manner to location but none to size
 - p.73 – (handbook Gas Station Valuation Guide) the most important single attribute of land was its location
 - p.74 – (Colliers presentation on appraisal theory) property physical characteristics were secondary to location
- [23] Beginning at p.54 of Exhibit R.1 was the City's current cap rate sales groups 1 to 7 and their associated COD's and cap rate statistics. That data was not provided by Altus in their analysis. When asked about further statistical testing they did not turn their minds to properties <24,000 sqft. Putting sales >24,000 sqft into one group would have an adverse effect on some of the remaining groups.
- [24] The Tax Agent had argued that the sale of Tubby Crescent produced a cap rate comparable to other large warehouses and should have been assessed the same by combining the neighbourhoods north and south of 51st Street. However, the properties were not comparable because they were in different locations. Tubby Crescent was the only large property sale north of 51st and one sale did not make a market.
- [25] The Tax Agent had also argued that there was an inconsistent estimate of value by the Assessor for properties north and south of 51st Street. That was because he found the properties comparable for rents but not for cap rates. However, the rental market and sales markets were different. The Market Rent Model included lessees and lessors while the sales market included purchasers and vendors.
- [26] The Tax Agent acknowledged that cap rate group 6 was excluded from their analysis. That and the site coverage issue were unsupported in any way other than relying on the Maple Leaf decision. Every appeal every year must be decided on the record.

End carry forward from Appeal 36-2019

Ground 5:**APPELLANT'S EVIDENCE AND ARGUMENTS:**

- [27] It was previously agreed that the issue of site coverage would be dealt with as a “stand up – sit down” issue. The Board’s ruling on that matter in BOR 519-2017 was still before the Committee. However, the Committee has since rendered a judgement that found in favour of the Board’s decision. That being the case, the current Panel should include the canopy in the site coverage calculation so as to place the subject in the 6.59% cap rate group.

ASSESSOR'S EVIDENCE & ARGUMENTS:

- [28] “Site coverage” is defined by a municipality in its bylaws. In Exhibit R.1: Appendix MM is a portion of Bylaw No. 8770, “A Bylaw Respecting Zoning in Saskatoon”. In that excerpt (p.2-25) is the following definition of “site coverage”:

That percentage of the site covered by buildings above grade level exclusive of marquees, canopies, balconies and eaves.

- [29] In the 2017 appeal there was nothing on the record that identified what was, or was not, to be considered in the calculation of site coverage. In this appeal, that information is on the record. Just as the Board did not have that information before it, neither did the Committee.
- [30] The addition of this information to this year’s appeal means that the Panel must reconsider the previous decision and it also means that the Committee’s decision does not apply here.

RULES, STATUTES, PRECEDENTS:

In the general course of its deliberations, the Board was guided by the principles expressed in Sections 164 and 165 of *The Cities Act*, the Market Value Assessment in Saskatchewan Handbook for non-regulated properties, and the Saskatchewan Assessment Agency Manual for regulated properties.

The relevant sections of *The Cities Act* are as follows:

- Section 165(2) provides that property is to be valued as of the “base date”, which has been established by the Saskatchewan Assessment Management Agency (SAMA) as being January 1, 2015. In determining property value, all facts, conditions and circumstances that are required to be taken into account are to be applied as if they had existed on that base date.
- Section 165(3) directs that equity is the dominant and controlling factor in the assessment of property. Section 165(4) directs that equity in regulated property assessments is achieved by applying the regulated property assessment valuation standard uniformly and fairly. Section 165(5) states that equity in non-regulated

property assessments is achieved by applying the market valuation standard so that the assessments bear a fair and just proportion to the market value of similar properties as of the applicable base date. If, as a general matter, the same methodology has been employed in the valuation of the property in question as has been employed in the valuation of other such properties in the municipality, then there is no basis, in general, for varying the valuation on appeal.

- It must be noted this is a “mass assessment” system, not an individualized appraisal system.

ANALYSIS AND CONCLUSIONS:

A province-wide reassessment occurred in 2017 with all properties valued as of January 1, 2015. Under *The Cities Act*, residential properties, multi-unit residential, and commercial properties are “non-regulated property”. A regulated property assessment valuation standard is used for properties such as agricultural land, oil and gas well production equipment, linear property and heavy industrial property.

- Section 163 (f.1) states: *“market valuation standard” means the standard achieved when the assessed value of property is prepared using mass appraisal is an estimate of the market value of the estate in fee simple in the property reflects typical market conditions for similar properties; and meets quality assurance standards established by order of the agency;*
- 163 (f.2) states: *“market value” means the amount that a property should be expected to realize if the estate in fee simple in the property is sold in a competitive and open market by a willing seller to a willing buyer; each acting prudently and knowledgeably, and assuming that the amount is not affected by undue stimuli;*
- 163 (f.3) states: *“mass appraisal” means the process of preparing assessments for a group of properties as of the base date using standard appraisal methods, employing common data and allowing for statistical testing.*
- Section 164.1 (2) of *The Cities Act* states; *“Non-regulated property assessments shall be determined according to the market valuation standard”*
- Section 165 (3) states: *“The dominant and controlling factor in the assessment of property is equity”*

Grounds 1 to 4:

Begin carry forward from Appeal 36-2019

[31] The central issue in this and the related appeals is how the Assessor has chosen to stratify warehouses for the purpose of determining a model market cap rate. In his submission the Assessor has said:

“It is a standard mass appraisal method to stratify first by Location and then by other value driven characteristics.” (Exhibit R.1 p.13)

To that end, he then first created three locational groups, then four size groups, then four site coverage groups. The result was seven possible market cap rates for warehouses in the city. With that configuration, it was possible for a warehouse >24,000 sqft to be assessed with a market cap rate of 5.50%, 6.60% or 8.64%.

- [32] The Tax Agent had identified the Appellant's position on this stratification in the Grounds at Section 3: Supporting Facts: (i):

“The assessor has stratified by location for large warehouses without sales evidence to support the conclusion. The market of large warehouses similar to the subject is not limited to a specific location.”

- [33] Mr. Horne drew the Panel's attention to at least ten references to authorities in the City's submission (Exhibit R.1) that he said confirmed that, in assessment, location should take precedence over size. One such reference was noted previously:

p.62 – (excerpt from IAAO textbook) Location is its own bold heading, Size is subject to Improvement

In fact, a close look at the table referenced showed that there were three headings that appeared in this order: “Improvement Data”, “Land Data” and “Location Data”. Interestingly, the first heading had as its first subheading “size” while “market area” appeared as a subheading of the third heading. It was an error to infer from this reference that location should be the primary consideration. Most of the references were similarly tinted in their presentation.

- [34] The City was concerned that putting all properties >24,000 sqft into one group would have an adverse effect on the assessment of some of the current groups. In the Preston Crossing appeal, the Committee said such a concern was not warranted where properties that were not comparable were assessed as though they were. They should not have been grouped together to begin with.
- [35] The City argued that the Tubby Crescent sale should not be moved to Market Area 5 simply because its sale cap rate was more similar to those sales in 5. The City's argument was that *“One sale does not make a market.”* (Exhibit R.1 p.15). The Agent, at p.10 of Exhibit A.6, noted that currently the Assessor relied on one sale from AO neighbourhood 30007 (2501 Thayer Avenue) to calculate the 8.64 cap rate. He also noted that since the “one” sale situation existed in all three of the Assessor's current stratifications, the argument should not be given credence.
- [36] The City put forward that the Agent had failed to apply the Mann-Whitney Test and run multiple regression properly and had also erred by not applying the Mann-Whitney Test to ratios. Referring to p.106 of Exhibit R.1, the City quoted Robert Gloudemans, author of the IAAO Red Book, as saying that you do not run the Mann-Whitney Test on things other than ratios. (that alleged quote could not be found in that portion of the submission)

- [37] The Tax Agent's response was that the non-parametric Mann-Whitney Test was designed to test the comparability of any two variables. Use of the Mann-Whitney Test for assessment to sale ratios would test the results of the assessment, but that was not the issue in this appeal. The issue before the Panel was whether the neighbourhoods were defined correctly.
- [38] The City called Ms. Huang to testify as an expert witness on its behalf. When introducing her, Mr. Horne advised the Panel that she would speak only to the Appellant's submission which reinforced the statement in Exhibit R.1: Summary of Testimony: App. KK that she would *"discuss the contents of the Tax Agent's evidence as it relates to statistics and the proper application of them within the context of expert knowledge and standard mass appraisal principles."*
- [39] The bulk of her testimony, however, consisted of drawing bell curves on a blank sheet on a clipboard which she said showed the "shape" of the data. It was not clear how this related to the Appellant's submission. She did not seem to directly address any of the analysis done by Mr. Simpson as found at Appendices U and V of Exhibit A.2.
- [40] The summary in App. KK (referenced above) also stated that she would *"testify that the Tax Agent has reached statistically unreliable and inappropriate results regarding the Mann-Whitney test and regression."* To that end, and in response to questions from Mr. Horne, she stated that: (as noted previously in testimony)
- Regarding p. 489 of that document, Mr. Simpson's suggestion that there was a size influence at 24,000 sqft was "weird" because size was a continuous variable but he transformed it into a binary variable. She would not have done it that way.
 - Regarding Mr. Simpson's finding that the AO neighbourhood was statistically insignificant, the variable he used had to be related to p. 491 (*All warehouse sales by size with <17% site coverage (group 1,2,3,4,5,7)*). It was not proper to run that type of regression. She was only able to replicate the Agent's analysis by putting the AO neighbourhood in as a nominal variable, which was wrong.
- [41] Dr. Volodin and Mr. Levis who testified on behalf of the Appellant, after reviewing the analysis done by Mr. Simpson, reached the following conclusions:
- Mann-Whitney, in this situation, was the best test for the cap rate variable to determine comparability in neighbourhood stratification because it was nonparametric.
 - There is a difference in capitalization rates between large warehouses and small warehouses.
 - The graphical analysis submitted in Exhibit A.2 (Appendix – Tab U) indicated that cap rates increased as building size increased. The regression analysis confirmed that a size adjustment for large warehouses was warranted.
 - There is no significant difference between the neighbourhoods north and south of 51st Street.

- There is no significant difference between the large warehouse neighbourhoods by location city wide.
- The analysis for both sales groups, all sales city-wide and the removal of sales with <17% site coverage, was accurate.

[42] After reviewing the evidence and testimony, the Panel finds that the analysis done by Mr. Simpson supports a previous finding of the Board, and subsequently the Committee, that the Assessor's stratification of large warehouses in Saskatoon is deficient. Analysis done both for this and the Maple Leaf appeals agree that warehouses >24,000 sqft and having a site coverage greater than 17% should be stratified city wide, excluding those properties in the Assessor's Group 6. All analysis to date has shown that size and site coverage were the only significant variables. It has also shown that location was not a significant variable because, as Mr. Levis said, it fell under the threshold of significance.

End carry forward from Appeal 36-2019

Ground 5:

[43] In BOR 519-2019 the Panel directed the Assessor to *"....recalculate the site coverage of the subject property so as to include the canopy and to then make the necessary adjustment to the assessment."*

[44] In AAC 2017-0299 et al the Committee agreed with the Board and ordered *"... the main structure at 2915 Faithfull Avenue assessed via application of a Cap Rate of 6.59% due to a site coverage calculation (included the costed canopy area) of greater than 26.7%."*

[45] For this appeal, the Assessor has submitted a Saskatoon City zoning bylaw definition of "site coverage", one that does not recognize a canopy as contributing to such coverage. The question before the Panel now is, does this submission effectively support the Assessor's position and negate the previous decisions of the Board and the Committee.

[46] The Panel notes that the definition of "site coverage", as submitted by the Assessor, is found in the City's zoning bylaw. One would suppose then that there must be, or there could be on occasion, some possible mutual influence between a property's site coverage and its zoning designation, hence the need for a definition. The Assessor suggests that this definition, which accommodates the requirements of a zoning bylaw is also suitable for the purpose of assessment. The Panel does not take that view.

[47] In addition to previous considerations of the Board and the Committee, this Panel has also considered the permanence of the canopy. An addition to the improvement of a property may be temporary, such as a steel bin or a storage shed on skids. Such an addition does not impair the potential use of a property. However, a canopy that is anchored to the ground with concrete and a utility cannot be considered temporary. A complete demolition would be required in order to

access and utilize the ground on which it stands. This is no different than the warehouse which is the main occupant of the property.

DECISION:

In accordance with Section 210(1) (b) of *The Cities Act*, the Board changes the assessment and directs a revision of the assessment roll for the property under appeal. The resultant change in assessment will reflect the revised warehouse stratification (determined in BOR 36-2019) to include (with the exception of the current Group 6) all warehouses under appeal city wide >24,000 sq. ft. and having a site coverage greater than 17%. The new Market Cap Rate arising from this stratification will be applied to the determination of the new assessed value of the subject property.

If, and only if, this Panel's decision regarding the cap rate does not survive a future appeal, then the subject property's assessed value will be adjusted in compliance with the Committee's order in AAC 2017-0299 et al so that the main structure at 2915 Faithfull Avenue is assessed via application of a Cap Rate of 6.59% due to a site coverage calculation (included the costed canopy area) of greater than 26.7%. If this Panel's cap rate decision survives a further appeal, then the issue regarding site coverage will be redundant and dismissed.

The Current Assessed Value is reduced. The assessment is ADJUSTED and all other aspects of the appeal are dismissed.

The Appellant's filing fees are refunded.

DATED AT SASKATOON, SASKATCHEWAN, THIS ____ DAY OF _____, 2019.

CITY OF SASKATOON BOARD OF REVISION

_____ for the Panel
Mr. Adrian Deschamps, Chair

I concur:

Ms. June Bold, Member

Mr. Cameron Choquette, Member

TAKE NOTICE, that in accordance with Section 216 of *The Cities Act*, any party to an appeal before a Board of Revision has a right of appeal to the appeal board, respecting a decision of a board of revision; and against the omission, neglect or refusal of a board of revision to hear or decide an appeal.

A notice of appeal form can be downloaded from **www.publications.gov.sk.ca** (select Saskatchewan Municipal Board from the Ministry list, and select Notice of Appeal to the Assessment Appeals Committee). The notice of appeal must be filed within 30 days after being served with this Record of Decision, to:

Secretary, Assessment Appeals Committee
Saskatchewan Municipal Board
4th Floor, Room 480
2151 Scarth Street
Regina, SK S4P 2H8
(Telephone: 306-787-6221; FAX: 306-787-1610; info@smb.gov.sk.ca)

In the case of the omission or neglect of the Board of Revision to hear or decide an appeal, the notice of appeal to the appeal board may be filed at any time within the calendar year for which the assessment was prepared.

An appeal fee is required by the Assessment Appeals Committee and **must be filed within the same 30-day appeal period or the appeal is deemed to be dismissed**. Assessment Appeals Committee fees are based on a scale related to the assessment of the property under appeal:

\$50 for each \$100,000 in assessed value, or portion thereof, to a maximum of \$600.

For additional information, please contact the Assessment Appeals Committee, Saskatchewan Municipal Board, at the address and/or telephone number indicated above.

(Note: Where an appellant failed to appear at the hearing, either personally or by agent, the decision of the Board of Revision is final and no further appeal may be taken)