



CENTRAL ALBERTA REGIONAL
**Assessment
Review Board**

Complaint ID 0262 1747
Roll No. 30001625065

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: AUGUST 28, 2023

PRESIDING OFFICER: LARRY LOVEN
BOARD MEMBER: MAUREEN CHALACK
BOARD MEMBER: ALLAN TARNOCZI

BETWEEN:

ALTUS GROUP LIMITED

Complainant

-and-

REVENUE & ASSESSMENT SERVICES
for the CITY OF RED DEER

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The Red Deer as follows:

ROLL NUMBER: 30001625065

MUNICIPAL ADDRESS: 4902 48 STREET, RED DEER

ASSESSMENT AMOUNT: 4,814,800

The complaint was heard by the Composite Assessment Review Board on the 28th day of August 2023, via video conference.

Appeared on behalf of the Complainant: Andrew Iazard, Altus Group Limited
Brett Robinson, Altus Group Limited

Appeared on behalf of the Respondent: Tyler Johnson, City of Red Deer

DECISION: The assessed value of the subject property is confirmed.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 455 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”].

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is a 64, 600 sq. ft. concrete parking structure located in city centre zone of the downtown subdivision and was built in 2003. It is assessed on the cost basis.
- [3] The assessment requested is \$4,454,683. At issue is the depreciation rate applied to the new replacement cost.
- [4] Not at issue are: the value of the exempt portion for Red Deer College (RDC), \$770,360 and Reg 281/98/Non-Residential, \$240,740, for a total of \$1,011,100, and the land value.

PRELIMINARY MATTERS

- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [7] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.

POSITION OF THE PARTIES

Position of the Complainant

- [8] The Complainant stated that the assessment summary for the subject property identifies *Marshall & Swift* as the basis for valuation of the parking structure at \$3,803,700. Using *Marshall & Swift* costs for 345 Parking Structure, the Complainant replicated the assessment summary of the parking structure at \$3,755,399. The inputs used were the same as those given on the *Marshall & Swift* assessment details: area, 64,600 sq. ft.; year built, 2003; rank, 2; class, B; height, 8; and, combined depreciation, 21%.
- [9] The Complainant provided excerpts from *Marshall & Swift* for 345 Parking Structure giving the typical life of the class B, 345 Parking Structure as 40 years for average quality, the calculator method and depreciation. The *Marshall & Swift* depreciation chart was highlighted showing the depreciation percentage for commercial properties with a typical life expectancy of 40 years and an effective age of 19 years is 28 %. Included in the depreciation chart were all structures from section 14, which includes parking structures.
- [10] The Complainant argued, based on *Marshall & Swift*, there is no basis for the assessed depreciation rate of 21% and requested the assessment be reduced to \$4,454,683. The cost of the parking structure using the same inputs, excepting for depreciation at 28%, was calculated to be \$3,395,283.

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- [11] The Complainant stated the *Marshall & Swift* depreciation chart is “capped” at 80% at end of the typical life and the replacement cost new continues to raise over time; whereas the 1984 Alberta Guide has been unsupported by the province since then and recommends municipal assessors to find other sources to rely upon such as *Marshall & Swift*.
- [12] In rebuttal, the Complainant submitted that the assessment summary and detail report for the subject property both state *Marshall and Swift* and have interpreted that all *Marshall Swift* variables were used to prepare the costed value portion of the subject assessment.
- [13] Several court decisions regarding statutory interpretations were provided: ***Stuart Investments Ltd. v. The Queen***, [1984] 1 S.C.R. 536, ***Canada v. Antosko***, [1994] SCR and ***Canada Trust Co Mortgage Co. v. Canada*** [205] SCC 54, “in their entire context and in their grammatical and ordinary sense” and “the taxpayer shall be free to avail; himself of the provision in question”; ***Shell Canada Ltd. v. Canada*** [1992] SCR 62 cautioning against findings “unexpressed legislative intention” in clear provisions of legislation; and, ***Canada Safeway Ltd v Calgary (City)***, 2016 ABQB 200, “... consistently and purposely, they cannot do this in an manner that deviates from the clear wording of the legislation.”
- [14] The Complainant raised the question of procedural fairness regarding s. 299(1) of the Act where “an assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive information prescribed by the regulations that is in the municipal assessor’s possession at the time of the request, showing how the municipal assessor prepared the assessment of that person’s property.” And cited the following legal decisions. ***Stinchcombe v. Law Society of Alberta*** [202] ABCA 106 regarding “that a person appearing before a tribunal have the right to make a full answer and defence” and requires “that a fair opportunity be given”. ***Veteran’s Way Project Ltd v Calgary (City)***. 2019 ABQB 368 regarding an error in law made by “the CARB allowed to be fettered by a City policy”. ***1182727 Alberta Ltd. et. Al v. The Town of Okotoks*** [2023] CARB (Okotoks) 0238/01/2023-J on a preliminary issue directing the Respondent to “provide the assessment calculations used to arrive at the subject assessment.”
- [15] In summary, the Complainant argued that a “mix-and-match” approach to determine value of the depreciated cost of the subject parking structure was unfair.

Position of the Respondent

- [16] The Respondent provided an overview of mass appraisal and the cost approach to valuation and the steps in the cost approach including subtracting the estimated amount of accrued depreciation (physical, functional and external) from the total reproduction or replacement cost.
- [17] The assessment summary for the subject property shows an assessment of \$3,803,700 and the *Marshall & Swift* details at \$4,9976,784, less of 21% depreciation and 5% GST, \$3,755,399.
- [18] The Respondent interpreted the Complainant’s request to change the assessed depreciation rate be based on a change in the age life based on a 40-year life from *Marshall & Swift*. The Respondent stated that a 60-year age life was used and the 21% depreciation rate applied was taken from the 1984 Alberta Manual.

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- [19] In support of their position regarding the age life of parkades. In CARB 05-2023 from Camrose, AB, the Board found the assessor has the legislative authority to apply depreciation rates that are “modified or different from that of *Marshal & Swift*”.
- [20] The Respondent argued the Complainant did not provide any evidence that applying the requested depreciation rate of 28% results in a “superior” market value.
- [21] In support of their position regarding the age life of parking structures and assessed depreciation rate, the Respondent provided a chart of ten parking structures (parkades) in Calgary ranging in year built from 1913 to 1978 and age from 38 to 109 years. The Respondent argued the age of the ten Calgary parkades was a more “realistic and reasonable representation of market value”.
- [22] The Respondent provided two other examples of parking structures (parking garages) from out-of-province, St. James and Hotel La Sale at 57 years and 87 years, respectfully. These two examples, it was argued, support that parking garages exist for more than 40 years.
- [23] The Respondent provided the assessment-to-sales ratios (ASRs) for three industrial properties and five commercial properties valued or assessed on the cost method. The ASRs ranged from 0.59 to 1.07, with a median 0.86, for the three industrial properties; and, from 0.64 to 1.15, with a median of 0.84, for the five commercial properties. The Respondent then applied the actual life from *Marshal & Swift* based on the occupancy code, building class and quality rank for each property. The resulting ASRs ranged from 0.53 to 1.00, with a median of 0.81, for the three industrial properties; and, from 0.62 to 1.10, with a median of 0.76, for the five commercial properties. The Respondent argued that this shows the *Marchal & Swift* typical life does not yield better [ASR] results than the assessed depreciation for all industrial properties, based on 60-years life.
- [24] In conclusion the Respondent argued the Complainant failed to demonstrate the requested depreciation rate of 28% yielded a better indication of market value than the assessed depreciation rate of 21% and requested the assessment of the subject property be confirmed.

BOARD FINDINGS and DECISION

- [25] The Complainant was able to reasonably, within about 2.5%, replicate the assessed replacement cost of the subject property using same input values to the *Marshal & Swift* cost calculator as assessed. However, the Complainant found that the depreciation rate for the age, type and condition of the subject parking structure, according to *Marshall & Swift* to be 28%, not that assessed at 21%.
- [26] The Complainant had the opportunity, upon discovery of the potential “error” to request information, under s. 299(a) of the *Act* that may have provided clarification regarding the assessed depreciation rate, but chose not to do so, citing costs.
- [27] If there were questions of [procedural] fairness and statutory interpretation, the Complainant, also had the opportunity to raise issues these as preliminary matters at the outset of the hearing, but again chose not to do so, instead raising them in rebuttal.

- [28] Even though the Board finds the Complainant's claim that the assessment detail report for the subject property may, incorrectly, lead the assessed person to believe the assessed depreciation rate of 21% was derived from *Marshall & Swift*, no evidence was presented that supported that the *Marshall & Swift* depreciation rate of 28%, applied to the subject parking structure resulted in better indication of market value, only that the applied depreciation rate differed.
- [29] The Board accepts the depreciated "life" of the subject parking structure, according to *Marshall & Swift* to be 40 years and capped at 20% of replacement cost. However, the Board finds Respondent's evidence of parking structures in the City of Calgary to have a longer economic or useful life to support their use of a 60-year depreciation schedule for the subject parking structure.
- [30] Given that excerpts from the *1984 Alberta Guide* regarding depreciation were not in evidence and it was not disputed that costed structures in the City of Red Deer are all assessed using a 60-year depreciation rates taken from the *1984 Alberta Guide*, the Board accepts the Respondent's evidence that the subject parking structure was assessed at a depreciation rate applied equitable to costed structures in the City of Red Deer.
- [31] The Board finds the best evidence regarding the "correctness" of the assessed depreciation rate applied to the subject parking structure to be the Respondent's ASR variance analysis of other industrial and commercial costed structures in the City of Red Deer.
- [32] Based on its consideration of the above findings, the Board confirms the assessed depreciated rate, applied to the subject parking structure, at 21%.

DECISION SUMMARY

- [33] The Board finds that the original assessed value is CONFIRMED.
- [34] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 28th day of September, 2023 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



**Katlyn Kostashuk Clerk on behalf of Larry Loven
Presiding Officer**

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials Provided by Clerk – 15 Pages
2. C.1	Complainant Submission – 213 Pages
3. C.2	Complainant Rebuttal Submission – 246 Pages
4. R.1	Respondent Submission – 77 Pages