IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Cheung v. Assessor of Area #01 – Capital,* 2026 BCSC 212

Date: 20260122
Docket: S2512093
Registry: Victoria

In the Matter of a Stated Case Under the *Assessment Act,* R.S.B.C. 1996, Chapter 20, Section 65

Between:

Stephen Cheung

Applicant

And:

Assessor of Area #01 – Capital and Property Assessment Appeal Board

Respondents

Before: The Honourable Madam Justice V. Jackson

Oral Reasons for Judgment

In Chambers

Applicant appearing on his own behalf:	S. Cheung
Counsel for the Respondent Assessor of Area #01 – Capital:	M. Watson J. Chaudhary, A/S
Place and Date of Hearing:	Victoria, B.C. January 20, 2026
Place and Date of Judgment:	Victoria, B.C. January 22, 2026

[1] **THE COURT:** This is a Stated Case by the Property Assessment Appeal Board (the “Board") under s. 65 of the *Assessment Act*, RSBC 1996, c. 20 (the “*Act")* brought at the request of the applicant, Stephen Cheung.

1. The Framework of the *Act*

[2] Relevant to this Stated Case, each year before October 31, the assessment authority must supply to each municipality an estimate of the total assessed value of each property class in the municipality: s. 2(a). By December 31, the Assessor must then complete a new assessment roll, containing a list of each property that is in the municipality that is liable to assessment, which is the assessment roll for the purpose of taxation during the calendar year, and deliver an assessment notice to each person named in the assessment roll: s. 3(2) and (3).

[3] Under the *Act*, the Assessor must determine the actual value of land and improvements as at the valuation date, being July 1 of the year during which the assessment roll is completed and must enter the actual value of the land and improvements in the assessment roll: ss. 18(1) and (2) and 19(2).

[4] Under the *Act*, "actual value" means the market value of the fee simple interest in land and improvements: s. 19(13).

[5] Section 19(3) of the *Act* provides that in determining actual value, the Assessor may, except where this *Act* has a different requirement, give consideration to the following:

a) present use;

b) location;

c) original cost;

d) replacement cost;

e) revenue or rental value;

f) selling price of the land and improvements and comparable land and improvements;

g) economic and functional obsolescence; and

h) any other circumstances affecting the value of the land and improvements.

[6] A person who wishes to make a complaint against an individual entry in an assessment roll, *inter alia*, on the basis that the land or improvements or both are not assessed at actual value must file notice of the complaint with the Assessor responsible for the assessment, and if not resolved, the complaint is heard by a hearing review panel: ss. 32(1)(c) and 33(1).

[7] The Assessor's review panel, when considering whether land or improvements are assessed at actual value, must consider the total assessed value of the land and improvements together, subject to certain requirements and exceptions set out in the *Act*, and may direct amendments to be made to the assessment roll. The Assessor must deliver notice of the decision made by the review panel or of its refusal to adjudicate the complaint made before April 7 following the review panel hearing: ss. 38 and 41(1).

[8] If a person is dissatisfied with the decision of the review panel, they may appeal to the Board: s. 50(1)(a). The powers and duties of the Board in an appeal are set out in s. 57 of the *Act*, which provides in part and relevant to this Stated Case:

> 57(1) In an appeal under this part, the Board
>
> (a) may reopen the whole question of the property's assessment to ensure accuracy and that assessments are at actual value applied in a consistent manner in the municipality ... and
>
> (b) when considering whether land or improvements are assessed at actual value, must consider the total assessed value of the land and improvements together.
>
> …
>
> (4) The Board may order the assessment authority to reassess at actual value land and improvements in all or part of a municipality ... whether or not they are the subject of the appeal, if the Board finds
>
> (a) that the assessments in the municipality ... or in part of any of them, are above their actual value, or

> (b) that the assessment appealed against is at actual value but that the assessments of similar land and improvements in the municipality ... or in part of any of them, are below their actual value.

[9] A person affected by a decision of the Board on appeal may require the Board to refer the decision to the Supreme Court for appeal on a question of law alone in the form of a Stated Case, and the Board "must file the stated case with the court registry, including the decision on appeal, a statement of the facts, and all evidence material to the stated case": s. 65(1) and (4).

[10] In *Gemex Developments Corp. v. British Columbia (Assessor of Area #12)*, 1998 CanLII 6466 (BC CA) at para. 9, the Court of Appeal affirmed that under the *Act*, a question of law means:

1. a misinterpretation or misapplication by the Board of a section of the *Assessment Act*;
2. a misapplication by the Board of an applicable principle of general law;
3. where the Board acts without any evidence;
4. where the Board acts on a view of the facts which could not reasonably be entertained; or
5. where the method of assessment adopted by the Board is wrong in principle.

See also *Victory Motors (Abbotsford) Ltd. v. Assessor of Area No. 15 – Fraser Valley*, 2017 BCCA 295.

[11] The standard of review of a decision of the Board on a question of law is correctness: *Shato Holdings Ltd. v. British Columbia (Assessor of Area #09)*, 2022 BCSC 345 at para. 36, citing a decision of now Chief Justice Skolrood in *Coquitlam (City) v. British Columbia (Assessor of Area #10 – North Fraser Region)*, 2020 BCSC 440 at paras. 16-17.

[12] British Columbia Supreme Court Civil Rule 18-2 (Stated Cases) provides, *inter alia*, that a notice of Stated Case must set out a statement of the relevant facts and evidence and the questions to be determined by the court. The Board does not play a gatekeeper's role in stating the questions. Given that it is the Board's decision

that is the subject of a Stated Case appeal, there are sound reasons for this approach. However, it remains a threshold question for the court hearing the Stated Case to determine whether the questions put forward in the Stated Case are questions of law that properly give rise to an appeal under the *Act*.

The Stated Case before me

[13] The facts as set out in Part 1 at paras. 1-17 of the Stated Case are as follows:

> 1. The appeal before the Board was from the decision of the 2025 Property Assessment Review Panel for a single-family dwelling in Victoria. The property (the Subject) has a 2025 assessment of $2,331,000, split between land at $1,168,000 and improvements at $1,163,000.
> 2. The Subject has a rectangular, 11,099-square-foot lot in the Gonzales Bay/Fairfield East neighbourhood in Victoria.
> 3. The Subject has a 4,353-square-foot home, built in 2010, with six bedrooms and six bathrooms. The home includes a 1,440-square-foot finished basement, with a two-bedroom and two-bathroom secondary suite. The home is considered to be in good condition. The Subject also has a 462-square-foot detached double garage.
> 4. The five added sales comparables of the appellant before the Board (the "Appellant") sold for $1,950,000 to $3,950,000 between May and December 2024. The Board found the average sale price is $2,870,000. The Board noted the sales comparables are substantially more distant than the other comparables, located 2.8 to 13.3 kilometers from the Subject.
> 5. 325 Richmond Avenue sold for $2,688,000 in 2024.
> 6. The Board found the market movement adjustments are supported by statistics. The Board found the sale comparables appear adequately similar in key features, including location, style, size, and age, and condition. The Board found 325 Richmond Avenue offers sufficient similarity to warrant comparison. The Board found it is overall slightly superior to the Subject, with its smaller size balanced by the newer house and better location.
> 7. The Board found the Assessor of Area #01 - Capital (the "Assessor") had provided the only persuasive market value analysis for the Subject.
> 8. The Board found the Assessor's $2,500,000 value conclusion is reasonable and is the best available indication of the Subject's market value on July 1, 2024.
> 8. The Board found the Assessor's $2,500,000 value conclusion is reasonable and is the best available indication of the Subject's market value on July 1, 2024.

9. In considering equity, the Board found the 353 sales of Class 1 residential properties between January and December 2024 indicate a median Cheung v AA#01 and the Property Assessment Appeal Board page 3 assessment to sales ratio (ASR) of 97.4% and a coefficient of dispersion (COD) of 6.2%. The Board found the Subject's $2,331,000 assessment represents 93% of its estimated $2,500,000 market value.

10. The Board found the Assessor's eight equity comparables to be located in the same neighbourhood, with similar age, condition, and size. Their assessments vary from $2,228,000 to $2,495,000.

11. 335 Richmond Avenue has an ASR of 88%. 174 Joseph Street had only a 14% increase in its assessment over the prior two years, compared to the Subject's 24% increase.

12. The Board found the Assessor's focus on jurisdiction-wide sales is appropriate for establishing the level of assessment. The Board found the 97% median ASR supports that assessments in this jurisdiction are equitably set at or slightly below the property's market value. The Board found 6.2% COD is well within established assessment industry guidelines for acceptable dispersion.

13. The Board found the median and average ASR of the 17 sales provided by the Assessor was 97% and 98%, respectively. This mirrors the jurisdiction results and demonstrated a similar level of assessment at the neighbourhood level.

14. For the three properties with build dates after 2000, the Board found ASRs of 86%, 96% and 96%. The Board found the average ASR is 93% and the median is 96%. The Board found this generally supports that a slightly below market value assessment is considered equitable, and more specifically that the Subject's current 93% assessment is conservative.

15. The Board found the best estimate of the Subject’s market value on July 1, 2024 is $2,500,000. The Board found it is reasonable for the assessment to be set at or slightly below its market value. The Subject's $2,331,000 assessment is currently set 6.8% below its market value, which indicates the Subject is under-assessed by more than the average residential property in this jurisdiction.

16. The Board confirmed the decision of the 2025 Property Assessment Review Panel.

17. Attached as Schedule "A" to this Stated Case is a copy of the Board's decision dated July 29, 2025 in respect of appeal 2025-01-00008.

[14] There are three questions set out in the Stated Case, although there is overlap in the analysis.

Question 1: Did the Property Assessment Appeal Board err in law by treating fair market value as determinative rather than conducting the equity analysis to ensure that actual value was applied consistently across the assessment roll within the municipality as required by s. 57(1)(a) of the *Assessment Act*?

[15] First, I agree with the Assessor that the question is based on a false premise. The Board did not treat fair market value as determinative rather than conducting the equity analysis to ensure the actual value was applied consistently across the assessment roll within the municipality. The Board found an actual/market value supported by evidence it had before it and then went on to consider equity. The determination of actual/market value is the starting point. The equity analysis which follows and which the Board undertook involves a consideration of whether there is a basis to depart from actual/market value.

[16] Second, the appellant's submissions that the Board rejected the appellant's equity comparables (referring to para. 45 of the Board's decision) because they did not establish market value (referring to para. 20 of the Board's decision) misinterprets the Board's decision. The Board considered both the appellant's comparables evidence and found that evidence was wanting both because they were "not helpful in establishing the Subject's market value" (para. 20 of the decision under its analysis of the actual/market value) and because they focused on "low outliers in the comparables" and that such a small, “cherry picked” sample was "not persuasive" (at para. 45) as part of its equity analysis.

[17] Further, although the appellant advocated an equity analysis based on what he described as certain “functional similarities”, the Board considered that approach to be deficient. It was entitled to do so. The selection or rejection of the appropriate evaluation technique is a question of fact for the Board, provided there is some evidence to support the selection, *Cal Investments Ltd. Estate*, 1993 CanLII 2694 (BC SC), aff’d 1994 CanLII 3297 (BC CA).

[18] As noted by Justice Hood in *Delsom Estates Ltd. v. Assessor of Area #11 - Richmond/Delta*, 2000 BCSC 289 at para. 36:

> The scope of review on appeal by way of stated case is a very limited one, being confined strictly to questions of law. In performing its tasks, the Board, like the Court of Revision and the assessor before it [in the predecessor legislation] of necessity, has a very wide discretion. Like any fact finder, the Board will consider and weigh many factors and make many lessor or secondary decisions before reaching its final or primary decisions. Almost every decision made by the Board involves some discretionary judgment, and each constitutes a finding of fact. I cite here a few examples taken from decisions of this court and all of which are raised or complained of in the case at bar the question of the sufficiency and the weight of evidence. The question of whose evidence, and what evidence, is to be preferred or accepted; the choice of appraisal method, or combination of them; the choice of factors to be considered in determining actual value; the determination of what the other circumstances affecting the value of the land and improvements under s.19(3)(h) might be; the question of what other lands are comparable; and finally, the determination of actual value itself. The court has no jurisdiction to intervene in the Board's decisions in such matters if there was some evidence before the Board which could support the finding.

[19] It is for the Board to decide what factors should be included or excluded in a method of arriving at value and what circumstances affect value, as those are all questions of fact, *British Columbia (Assessor of Area #09 – Vancouver) v. Lord Realty Holdings Ltd*., 1996 CanLII 1444 (BC CA) at para. 35. See also *Gemex* at para. 9; and *Assessor of Area #6, Courtenay v. Quinsam Coal Corp.*, 2002 BCCA 68 at para. 39.

[20] In the equity analysis under s. 57(4) of the *Act*, "consistent" means assessments must treat similar properties in a similar way, where "similar" means characteristics or factors to which the market tends to respond in a similar fashion, *Ross v. Assessor of Area #10 - Burnaby/New Westminster*, 2000 BCCA 5 at para. 15, endorsing the view of the Board in that case (see para. 7); relied on by Justice Power of this Court in *Allard v. British Columbia (Assessor of Area #24-Cariboo),* 2021 BCSC 1088 at para. 85.

[21] As the appellant acknowledged in the course of his submissions before me, various functional similarities may be viewed very differently by various buyers in the market, and it is data that may be difficult to access. In contrast, the ASR technique

embraced by the Board to assess similarity advanced through expert appraisal evidence based on a review of a broad, complete, aggregate sample, being all (353) of the Class 1 residential sales in the jurisdiction that year, provided a jurisdiction-wide, objective assessed value-to-market-sale-price ratio, and that provides a standardized benchmark that enabled the Board to do a check on whether the subject actual/market value was too high or too low. The Board was not wrong to adopt that approach. It was supported by evidence: *Kuhn v. Assessor of Area #14 – Surrey/White Rock*, 2016 BCSC 448 at para. 35.

[22] The appellant, as the appellant, had a persuasive burden to establish the fact he was advancing, namely, inequity: *Trafalgar Lands Ltd. v. British Columbia (Assessor of Area #09)*, 2022 BCCA 211 at para. 36; *Shato* at para. 114. The Board concluded the appellant's analysis did not offer persuasive evidence of inequity (at para. 45).

Question 2: Did the Board err in law under s. 57(1)(a) by failing to properly consider in-jurisdiction, functionally comparable non-sales and by mischaracterizing extra-jurisdictional comparables as the appellant's primary evidence?

[23] Again, in my view, this stated question is based on false premises. The Board did consider the appellant's evidence. However, as I have already noted, the Board found it unpersuasive. For the reasons I have already outlined, that was a fact they were entitled to find.

Question 3: Did the Board err in law by issuing inadequate and internally inconsistent reasons, particularly between paras. 26 and 42, 43, 44, 45, thereby failing to address the appellant's equity evidence and contravening the duty of justification and intelligibility required by administrative law?

[24] The Assessor takes the position this is not a question of law. I agree. While it has been held that whether a tribunal who does not deal with an argument has erred in law is a question of law (see *Reid v. The Owners, Strata Plan LMS 3917*, 2021 BCCA 249 at para. 25 and the cases cited therein) that is not what the third question states, and that is not the appellant's argument. His argument is that the Board's reasons were inadequate because they failed to address his equity evidence.

[25] First, there is no obligation to address every piece of evidence. Further, even if Stated Question 3 was a question of law, again, it is based on a false premise because the Board did address his equity evidence and the arguments he advanced based on that evidence. They simply found his evidence wanting and unpersuasive and gave reasons soundly supporting their view. The Board's reasons are not internally inconsistent.

Conclusion

[26] For all of these reasons, I conclude that the answer to all three stated questions is no.

[27] The appellant's appeal by way of Stated Case is dismissed.

Costs

[28] The Assessor is the successful party. Costs of a Stated Case are at the discretion of the Court: s. 65(8). The appellant submits that costs should not follow the event because, in his view, the issues he raised on this appeal were a matter of public interest. I disagree. It was the appellant who chose to pursue an appeal with respect to the assessment of his property. He was the potential beneficiary if he had won. He was unsuccessful. The costs of that loss should not be borne by the public. I view it as a proper exercise of my discretion to award costs to the Assessor payable by the appellant, and if the amount is not agreed to as between the parties, it is to be assessed and determined by the Registrar.

[29] Those are my reasons. I wish to thank both of the parties for their very helpful submissions.

“V. Jackson J.”