
Court of Appeal for Saskatchewan
Docket: CACV4183

Citation: *Souris Valley Lodging Inc. v Rural Municipality of Edenwold No. 158, 2026 SKCA 50*

Date: 2026-04-10

Between:

Souris Valley Lodging Inc.

Appellant
(Appellant)

And

Rural Municipality of Edenwold No. 158 and Saskatchewan Assessment Management Agency

Respondents
(Respondents)

Before: Schwann, McCreary and Drennan JJ.A.

Disposition: Appeal allowed

Written reasons by: The Honourable Justice Jillyne M. Drennan
In concurrence: The Honourable Justice Lian M. Schwann
The Honourable Justice Meghan R. McCreary

On appeal from: 2023 SKMB 17, Regina
Appeal heard: September 19, 2025
Counsel: Allison Graham for the Appellant
Kim Bodnarchuk for the Respondents

Drennan J.A.

I. INTRODUCTION

[1] This appeal arises from the 2022 assessment by the Saskatchewan Assessment Management Agency [SAMA] of two hotel properties located in the Rural Municipality of Edenwold No. 158 [properties]. Souris Valley Lodging Inc. [Souris Valley] appealed that assessment to the Board of Revision [Board]. The Board dismissed the appeal in a decision (*Souris Valley Lodging Inc. v Edenwold No. 158 (Rural Municipality)*) (6 September 2022), RM of Edenwold, 2022-A005 (SKMBR)) [*Board Decision*]. Souris Valley then appealed the *Board Decision* to the Assessment Appeals Committee of the Saskatchewan Municipal Board [Committee]. In a decision dated March 22, 2023, the Committee set aside the *Board Decision* but ultimately dismissed Souris Valley's appeal, finding no error in SAMA's assessment (*Various (Altus Group Limited) v Edenwold (Rural Municipality)*, 2023 SKMB 17 [*Committee Decision*]).

[2] Souris Valley was granted leave to appeal the *Committee Decision* to this Court pursuant to s. 33.1 of *The Municipal Board Act*, SS 1988-89, c M-23.3, on three questions of law, being whether the Committee erred:

- (a) in determining the propriety of SAMA's use of the same accommodation sales in separate models and different stratifications by:
 - (i) relying on a prior leave decision of Kalmakoff J.A. in this Court (*Souris Valley Lodging Inc. v Rural Municipality of Edenwold No. 158 (as represented by the Saskatchewan Assessment Management Agency)*) (27 September 2022), Regina CACV4035 [*2021 Leave Decision*]); and
 - (ii) erroneously interpreting *994552 N.W.T. Ltd. v Kindersley (Town)*, 2019 SKCA 77 [*Kindersley*];
- (b) applying the incorrect standards of review; and
- (c) relying on a prior year's assessment to determine the outcome of the appeal of the 2022 assessment.

[3] I agree that the Committee erred by relying on the *2021 Leave Decision*, and in turn, an interpretation of *Kindersley* it derived from the *2021 Leave Decision*, as being determinative of a core issue on appeal. That issue was whether the assessor was permitted to utilize the same accommodation property sales in separate models and different stratifications. I would allow the appeal on that basis alone and remit the matter to the Committee for determination. It is therefore unnecessary to address Souris Valley's other grounds of appeal.

II. BACKGROUND

A. The 2022 assessment

[4] The 2022 assessment of the properties conducted by SAMA used the modified cost approach, which requires a determination of the Replacement Cost New Less Depreciation of the improvements and the application of a market adjustment factor [MAF] to calculate the value that is then added to the property [Cost Approach].

[5] SAMA developed two MAF models for accommodation properties in 2022. The first was the Cluster 30 Model, using Cluster 30 sales. The Cluster 30 locations have higher populations, with almost all being cities. They are serviced by major highways connecting to larger centers. That Model was derived from 10 accommodation property sales located in Cluster 30 between January 1, 2011, and December 31, 2018. The Model resulted in a MAF of 0.88. The properties included in these sales range in year, built from 1958 to 2012. Their adjusted sale prices range from \$578,000 for a 12,000 square foot property to \$10,731,250 for a 131,116 square foot property.

[6] The second MAF model was the Multi-Cluster or Non-Cluster 30 Model, derived from Multi-Cluster Municipalities, including Clusters 41-43, 62, 64, and 81. Cluster 41 was comprised of "urban communities" described as "mid-size to larger towns and villages". Cluster 42 was comprised of "urban communities" described as "mid-size to smaller towns, larger villages and hamlets". Cluster 43 was comprised of "urban communities" described as small villages and hamlets. Cluster 62 was comprised of "bedroom communities" described as "moderately affected by a larger community". Cluster 64 was comprised of "bedroom communities" described as being "weakly affected by a larger community". Cluster 81 was comprised of "northern communities" described as "medium to large northern towns and villages".

[7] The properties at issue are located in Cluster 91 in the RM of Edenwold. Cluster 91 is described as rural communities with a strong urban influence. As no sales had been made in Cluster 91 during the applicable time period, SAMA looked to comparable sales in comparable neighbourhoods (using the “comparable neighbourhood method”) to assess the value of the properties. It ultimately decided to apply the Cluster 30 Model to the properties subject in this appeal, which included the MAF of 0.88, finding it most comparable.

[8] The Cluster 30 sales were also used by SAMA to develop a capitalization rate [cap rate] used in another valuation model, the income approach to value [Income Approach]. SAMA applied the Income Approach to assess accommodation properties located in the cities.

B. The 2021 assessment

[9] The property assessments in 2021 are also relevant to the issues in this appeal. They were conducted by SAMA using the same approach it used in 2022. Souris Valley had appealed the 2021 assessment to the Board, arguing that SAMA erred in applying the Cluster 30 Model MAF, which it submitted resulted in inequity. The Board allowed the appeal and ordered that a MAF of 0.36 (applied to Non-Cluster 30 properties) be applied instead (*Souris Valley Lodging Inc. v Edenwold (Rural Municipality)*, 2021 SKMBR 1580048). The RM of Edenwold (represented by SAMA) appealed this decision to the Committee. In *Edenwold (Rural Municipality) v Various (Altus Group Limited)*, 2022 SKMB 61, the Committee allowed the appeal and restored the original 2021 assessed values. The Committee declined to decide whether SAMA erred in using the Cluster 30 sales to construct both the Income Approach and the Cost Approach.

[10] Souris Valley applied for leave to appeal the Committee’s decision to this Court. In the *2021 Leave Decision*, Kalmakoff J.A. dismissed its application on all proposed grounds of appeal, including one addressing the issue of whether SAMA had erred in its re-use of the Cluster 30 sales. While Souris Valley had attempted to rely on this Court’s decision in *Kindersley* (for the proposition that it prohibited SAMA from using the Cluster 30 sales under both the Cost Approach and the Income Approach), Kalmakoff J.A. rejected this argument, stating that Souris Valley had misread *Kindersley* and that it did not stand for the proposition that this practice was prohibited (*2021 Leave Decision* at paras 33-34).

C. Appeal of the 2022 assessment to the Board

[11] Souris Valley appealed the 2022 assessment to the Board, arguing that (a) SAMA had erred by using the 0.88 MAF, which it argued was “excessive” and did “not represent the market”, (b) the assessment did not “bear a fair and just proportion to the market value of similar properties”, (c) comparable properties were assessed using the Non-Cluster 30 Model, and (d) SAMA had erred by using the Cluster 30 sales to develop both the Cluster 30 Model under the Cost Approach and a cap rate under the Income Approach, relying on *Kindersley*, which it claimed prohibited such a practice. Taken together, Souris Valley argued this approach resulted in an inequity between the assessment of the properties and other accommodation properties which had received lower MAF’s than the 0.88 MAF developed under the Cost Approach using the Cluster 30 Model. Souris Valley also took issue with SAMA’s use of Cluster 30 sales to develop both the Cost Approach and the Income Approach.

[12] The Board dismissed the appeal. Employing a “reasonable person” standard of review, it concluded that Souris Valley did not meet its onus of demonstrating error in the assessment.

D. Appeal of the 2022 assessment to the Committee

[13] Souris Valley appealed the *Board Decision* to the Committee, submitting that the Board erred by (a) failing to identify and apply the correct standard of review, (b) providing insufficient reasons, (c) relying on the prior year’s assessment in 2021, (d) finding that the assessor was permitted to use the same accommodation sales used to develop a cap rate for the Income Approach and a MAF for the Cost Approach, and (e) failing to consider relevant evidence and arguments before it, and by (f) misapprehending the evidence.

[14] The Committee first found that the standard of review employed by the Board was an error based on its understanding of this Court’s decision in *Brandt Properties Ltd. v Sherwood (Rural Municipality)*, 2023 SKCA 4. With the agreement of the parties, the Committee set aside the *Board Decision* on that basis. The Committee then considered the correctness of the assessment through the lens of Souris Valley’s grounds of appeal. It distilled the issues on appeal to two questions; first, whether the assessor erred in developing and applying the 0.88 MAF to assess the properties; and second, whether the assessor’s utilization of the same accommodation property sales to

develop a cap rate for the Income Approach and a MAF for the Cost Approach (i.e., the use of the same accommodation property sales to construct both the Income Approach and Cost Approach) was properly before the Board – and if so, did the assessor do so in error.

[15] After instructing itself on the standards of review set out in *Affinity Holdings Ltd. v Shaunavon (Town)*, 2022 SKCA 83 [*Affinity*], the onus on Souris Valley to demonstrate error in the assessment, and the presumption of correctness with respect to the assessment, the Committee rejected Souris Valley’s arguments and dismissed its appeal.

[16] In its analysis of the first issue, the Committee concluded that SAMA did not materially err in developing and applying the 0.88 MAF used to assess the properties. It found that the evidence submitted by Souris Valley amounted “to little more than its own opinion” that the Non-Cluster 30 sales were more comparable to the properties than the Cluster 30 sales and that it “provided nothing more than the suggestion of error without evidence to prove the alternative solution offered is more comparable” (*Committee Decision* at para 40). Conversely, it found that “SAMA, through its complete, extensive explanation made a convincing case that the assessment model is not derived in error and neither does it result in an erroneous assessment” (*Committee Decision* at para 40). The Committee dismissed this ground of appeal.

[17] On the second issue respecting SAMA’s utilization of the same accommodation property sales to construct both the Income Approach and the Cost Approach, the Committee concluded that the *2021 Leave Decision* “determines the issue in its entirety” (*Committee Decision* at para 44). The Committee explained that Souris Valley had submitted the same record and evidence to the Board as it did in 2021, and noted Richards C.J.S.’s statement in *Brandt Properties Ltd. v Sherwood (Rural Municipality)*, 2023 SKCA 5, that “[a]s a practical matter, it can of course be expected that, if the assessor takes the same approach in years 1 and 2, and the property owner, on appeal, advances the same evidence and argument in years 1 and 2, the results in both years will be the same” (at para 29). The Committee found that the *2021 Leave Decision* – which stated that “*Kindersley* should not be read as prohibiting the use of sales to determine both a cap rate under the Income Approach and a MAF under the Cost Approach” (*2021 Leave Decision* at para 34) – was “directly relevant to our determination in this appeal” (*Committee Decision* at para 47). As a result, the Committee determined that SAMA did not err and dismissed the appeal.

III. ANALYSIS

[18] As noted, Souris Valley was granted leave to appeal the *Committee Decision* on three questions of law. It is only necessary to address the first ground of appeal, being whether the Committee erred by relying on the *2021 Leave Decision*, and relatedly, the interpretation of *Kindersley* in the *2021 Leave Decision*, as dispositive of Souris Valley’s argument that SAMA erred by using the same accommodation property sales to construct the Income Approach and the Cost Approach.

[19] As to the second and third grounds of appeal, I would note that this Court has addressed the question of the proper standards of review to be applied by the Committee (see *Affinity and Dream Office Management (Sask) Corp. v City of Saskatoon*, 2026 SKCA 31), as well as the precedential value of past assessment years’ decisions respecting the same property (*Brandt* at para 5; see also *Pillar Properties Real Estate Corp. v Saskatoon (City)*, 2024 SKCA 75).

[20] Turning to the Committee’s use of the *2021 Leave Decision*, I begin with the relevant legal principles, upon which the parties agree. Leave decisions are not adjudications of matters on their merits, nor are they binding precedents. This is so because the focus of a leave decision is on whether an appeal has sufficient merit and importance to warrant an appellate court’s attention, and nothing more (see *Canadian Western Bank v Alberta*, 2007 SCC 22 at para 88; see also *Nordmark v Frykman*, 2019 BCCA 433 at paras 37-40 [*Nordmark*]). For this reason, “the observations and findings of the judge who grants leave are not binding on his or her colleagues, or the panel hearing the appeal” and “the same is true of all observations and findings made by the judge hearing the application for leave, irrespective of the subject matter, including the merits of the appeal” (*Charlebois v Riverview (Town)*, 2015 NBCA 45 at para 17).

[21] It follows that there is no precedential value in a leave decision’s preliminary consideration of an issue of law at the leave stage, as noted in *Sattva Capital Corp. v Creston Moly Corp.*, 2014 SCC 53:

[122] A court considering whether leave should be granted is not adjudicating the merits of the case (*Canadian Western Bank v Alberta*, 2007 SCC 22, [2007] 2 S.C.R. 3 (S.C.C.), at para. 88). A leave court decides only whether the matter warrants granting leave, not whether the appeal will be successful (*Pacifica Mortgage Investment Corp. v. Laus Holdings Ltd.*, 2013 BCCA 95, 333 B.C.A.C. 310 (B.C. C.A.), at para. 27, leave to appeal refused, [2013] 3 S.C.R. viii (note) (S.C.C.)). This is true even where the determination of

whether to grant leave involves, as in this case, a preliminary consideration of the question of law at issue. A grant of leave cannot bind or limit the powers of the court hearing the actual appeal (*Tamil Co-operative Homes Inc. v. Arulappah* (2000), 49 O.R. (3d) 566 (Ont. C.A.), at para. 32).

[22] Put somewhat differently, the principle of *stare decisis* does not apply to reasons given by a single appellate judge refusing leave to appeal, as discussed and determined in *Nordmark*:

[35] It is important to keep in mind that the critical issue before a single judge on a leave application is whether the proposed appeal should be heard by a division of the Court, i.e., a minimum of three judges: *Court of Appeal Act*, s. 13. While the merit of a proposed appeal is a factor, it is not the only factor. As discussed in *North American Tungsten Corporation v. Global Tungsten and Powders Corp.*, 2015 BCCA 426 at paras. 22–23, 81 B.C.L.R. (5th) 102, with reference to the oft-cited decision in *Power Consolidated (China) Pulp Inc. v. B.C. Resources Investment Corp.* (1988), 19 C.P.C. (3d) 396 (B.C.C.A., Chambers), the factors generally considered in determining whether to grant leave from an order of the Supreme Court of British Columbia are: (1) whether the point on appeal is of significance to the practice; (2) whether the point raised is of significance to the action itself; (3) whether the appeal is *prima facie* meritorious or, on the other hand, whether it is frivolous; and (4) whether the appeal will unduly hinder the progress of the action. The overriding factor is whether granting leave is in the interests of justice. It is apparent that all of these factors influenced Low J.A.’s decision to refuse leave in *O’Brien* (C.A.).

[36] It is well-established that the Supreme Court of Canada’s refusal to grant leave to appeal is not an indication that the Court agrees with the judgment sought to be appealed: *Canadian Western Bank v. Alberta*, 2007 SCC 22 at para. 88, [2007] 2 S.C.R. 3; *Des Champs v. Conseil des écoles séparées catholiques de langue française de Prescott-Russell*, 1999 CanLII 660 (SCC), [1999] 3 S.C.R. 281 at para. 31; *R. v. G.L.M.*, 1999 BCCA 467 at para. 35, 138 C.C.C. (3d) 383. Accordingly, the refusal of leave does not enhance the precedential authority of that judgment. In the Supreme Court of Canada, leave applications are decided by a minimum of three judges: *Supreme Court Act*, R.S.C. 1985, c. S-26, s. 43(3).

[37] I appreciate, as discussed in *Andrew Peller Ltd.* at paras. 24–25, that the Supreme Court of Canada’s practice is to not provide reasons for refusing leave. In this Court, the practice is different because a decision by a single judge refusing leave can be reviewed by a division of the Court: *Court of Appeal Act*, s. 9(6). **However, the fact that a single judge provides reasons for refusing leave does not give those reasons binding precedential authority. Indeed, as discussed in *Sattva Capital Corp. v. Creston Molly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633, even the reasons of a division of this Court on an appeal involving the issue of leave is not to be treated as binding.**

(Bold emphasis added)

[23] This Court has adopted the approach taken in the above authorities. In *Kindersley*, the Court determined that the Committee had erred by finding that a leave denial by Kalmakoff J.A. of this Court “upheld” a Committee decision:

[54] In arriving at its conclusion, the Committee found that because this Court had denied SAMA leave to appeal the Committee’s Moose Jaw decision excluding the Derrick

Hotel sale from the calculation of the capitalization rate for full-service hotels, its Moose Jaw decision had in effect been “upheld”.

[55] The fact this Court denied SAMA’s application for leave to appeal the Committee’s Moose Jaw decision, should not be viewed as affirming that decision or endorsing its correctness. **Leave decisions only deal with the issue of whether leave to appeal should be granted, nothing more. In particular, they do not deal with the substantive issues raised by the appeal itself.**

(Bold emphasis added)

[24] I pause here to note that none of this should be taken to say that a leave decision has no utility. For example, in *Nordmark*, the British Columbia Court of Appeal held that while it was open to a superior court Chambers judge to consider that a leave application had been made before a single appellate judge in the context of a *forum non conveniens* argument, it was impermissible for the Chambers judge to consider the findings and ruling in that leave decision as determinative of the substantive application (at para 40). Other authorities have held that while a leave decision “has little precedential value”, it can be “persuasive” (*The Government of Nunavut v Humphrey Schram*, 2014 NBCA 53 at para 25).

[25] However, a decision maker’s permissible use of a leave decision as persuasive does not permit it to rely on the leave decision and avoid performing its own legal analysis. To do so would be an error in law. I say this because an administrative decision maker’s reasons must “meaningfully account for the central issues and concerns raised by the parties”, with reasons being responsive to the parties’ submissions (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 74, citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 127). Although this is not meant to say that an administrative decision maker must respond to “every argument or line of possible analysis”, a decision maker’s “failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it” (*Mason* at para 74, citing *Vavilov* at para 128).

[26] I would observe on this point that the use of the *2021 Leave Decision* (in the context of *Kindersley’s* application to Souris Valley’s argument on the use of similar sales in different models and stratifications) was a live issue and the subject of submissions before the Committee. Counsel for Souris Valley asserted there, in response to arguments made by SAMA, that the *2021 Leave*

Decision did not affirm the Committee's decision in 2021 (Committee hearing transcript at p 25, line 5 and p 26, line 22).

[27] Given all of this, the key question is whether the Committee failed to conduct its own independent analysis and impermissibly resorted to the *2021 Leave Decision* as binding authority, determinative of Souris Valley's challenge to SAMA's use of the same accommodation sales in separate models and different stratifications – and along that vein, the *2021 Leave Decision's* interpretation of *Kindersley* as binding. As I will explain, I conclude that is what the Committee did.

[28] In its decision on this point, the Committee addressed a preliminary matter respecting its jurisdiction to consider this ground of appeal (which I will return to later). However, it went on to say that regardless of the jurisdictional issue, Souris Valley's argument failed on the merits for these reasons:

[44] In reviewing the grounds for appeal to the Board, and in considering positions raised on behalf of SAMA and the RM before us, a question is raised as to whether this issue was properly before the 2022 Board, or any appellate tribunal providing subsequent review including this Committee. Regardless of that, as we will explain below, in our view, the Court's ruling in *CACV4035*, which is the decision of Justice Kalmakoff to deny Altus leave to appeal our 2021 decision regarding the assessments of the two subject properties of these 2022 appeals, determines the issue in its entirety. We will explain below.

[45] First, Altus admittedly and physically put forth the same record and evidence to the Board in 2022 as it did in 2021. While we continue to be mindful of the Court's statement in paragraph [48] of *Brandt 4* (see paragraph [22] above), Chief Justice Richards' statement at paragraph [29] of *Brandt 5* conveys a message that is applicable here also:

[29] As noted, the assessment appeal for each year is independent of appeals in other years. As a practical matter, it can of course be expected that, if the assessor takes the same approach in years 1 and 2, and the property owner, on appeal, advances the same evidence and argument in years 1 and 2, the results in both years will be the same. But, for year 2, the issue will always be whether the evidence and argument advanced in relation to that year's assessment establish assessor error. It will never be appropriate to approach a year 2 appeal as if the property owner has the burden of overcoming the Board's or the Committee's year 1 decision.

[46] In *CACV4035*, Justice Kalmakoff examined the same set of facts, conditions and circumstances before us in these 2022 appeals when he wrote in consideration of whether an error of law arose from Altus' application for leave to appeal our 2021 decision for the subject properties. The question of law was proposed to arise from the allegation of Committee error framed as follows:

[13](c) the Committee erred in law by failing to determine the issue of whether SAMA's re-use of sales is inconsistent with this Honourable

Court's direction in *994552 N.W.T. Ltd. v Kindersley (Town)*, 2019 SKCA 77.

[47] The excerpts below from *CACV4035* taken from Justice Kalmakoff's analysis for the matter described in the immediately preceding paragraph are directly relevant to our determination in this appeal. Note the Court's reference to *Souris* is a reference to the prospective appellant acting on behalf of the property owners:

[32] ... *Souris* took the position before the Board that the assessor had erred because "nearly all of the sales in the array used to generate the Subject Properties' MAF were also used to generate a capitalization rate for a different set of properties". In short, says *Souris*, this use of "overlapping but not identical sales arrays" flies in the face of this Court's determination in *Kindersley* that it is an error of assessment principle to use property sales to value properties in more than one strata. ...

[33] ... In my respectful view, *Souris's* position on this point is premised on a misreading of the portion of *Kindersley* quoted in the preceding paragraph. As I read *Kindersley*, the issue in that case, and the error identified by this Court, was not simply that certain property sales had been used in developing a valuation model for more than one set of properties but, rather, that certain properties had been used to develop the valuation model for both comparable and noncomparable properties (i.e., limited-service hotels and full-service hotels).

[34] Put another way, *Kindersley* should not be read as prohibiting the use of sales to determine both a cap rate under the Income Approach and a MAF under the Cost Approach. Rather, it prohibits using sales multiple times within one model, which is not what SAMA did in this case. Accordingly, I see no prospect of this proposed ground of appeal succeeding, as there is no error that requires correction. ... (emphasis added)

[48] Whether or not this matter was properly before the Board in these appeals, it is clear to us in consideration of the foregoing that SAMA made no error in its use of accommodation sales data in separate models under both the Cost Approach and Income Approach. *Altus'* appeals in this regard, on this matter, are dismissed.

(Underline emphasis added by Committee)

[29] The above passage demonstrates two things.

[30] First, the Committee conducted no independent analysis on the issue of whether the assessor's use of the same accommodation property sales to develop a cap rate for the Income Approach and a MAF for the Cost Approach was done in error. Instead, it explicitly stated that the *2021 Leave Decision* "determines the issue in its entirety". While this word choice by the Committee would not, in and of itself, necessarily lead to the conclusion that the Committee abdicated its duty to address the issue *Souris Valley* placed before it, the absence of any attempt by the Committee to grapple with the arguments, the legal issue, and the relevant facts, leads me

to determine that the Committee saw the *2021 Leave Decision* as having resolved the issue and, as a result, it saw no need to delve into it further. In doing so, the Committee committed an interwoven error in law by relying on the *2021 Leave Decision* as binding and by failing to discharge its duty to meaningfully address a key argument before it.

[31] Second, the Committee adopted the *2021 Leave Decision's* comments on *Kindersley* as determinative of the argument made by Souris Valley, being that “*Kindersley* should not be read as prohibiting the use of sales to determine both a cap rate under the Income Approach and a MAF under the Cost Approach. Rather, it prohibits using sales multiple times within one model, which is not what SAMA did in this case” (*2021 Leave Decision* at para 34). Indeed, the Committee highlighted the above portions of the *2021 Leave Decision* relevant to Souris Valley’s argument before concluding that “in consideration of the foregoing”, SAMA did not err in the use of accommodation property sales in separate models under both the Income Approach and the Cost Approach.

[32] Based on the above, I cannot conclude that the Committee considered the *2021 Leave Decision* merely as persuasive authority. The *Committee Decision* referenced and relied on the *2021 Leave Decision* as having settled the legal issue, resulting in the Committee then failing to conduct any independent analysis of that issue. As the Committee essentially abdicated its decision-making function by deferring to the *2021 Leave Decision* as determinative of SAMA’s ability to use the same accommodation sales to construct the Income Approach and Cost Approach, it erred in law.

[33] As I understand its oral submissions before this Court, SAMA says that while the Committee’s reliance on the *2021 Leave Decision* may be a technical legal error, it is one of no moment, as in the end result, the Committee properly interpreted *Kindersley* (as did the *2021 Leave Decision*) and applied it correctly to the issue on appeal. It asserts that Souris Valley’s position on the use of the accommodation property sales in similar models and stratifications is quite obviously without merit.

[34] I disagree that the Committee's error is without consequence. The error is not about what proposition the Committee understood *Kindersley* to stand for, and whether that proposition is correct; the error here is the Committee's adoption of the *2021 Leave Decision's* interpretation of *Kindersley* without fulfilling its duty to conduct an independent analysis of the issue placed before it on appeal. The Committee's reliance on the *2021 Leave Decision* as precedential and determinative of an issue before it, in and of itself, constitutes an error of law – and this Court need not comment on the application of *Kindersley* to the argument made by Souris Valley to reach this conclusion. For clarity, this should not be taken to suggest that the *2021 Leave Decision's* comments on *Kindersley* are incorrect.

IV. CONCLUSION

[35] To summarize, the Committee erred in finding the *2021 Leave Decision* to be determinative of SAMA's argument respecting the use of the accommodation property sales in two different models and stratifications. In doing so, the Committee failed to engage in any independent consideration of assessment law and practice to come to its own conclusion on the issue. I would therefore allow Souris Valley's appeal and remit this matter to the Committee. Souris Valley will have costs of its leave application and this appeal in the usual way.

[36] One final comment is necessary on the above-mentioned preliminary issue raised by SAMA as to whether the Committee had jurisdiction to hear Souris Valley’s argument respecting the use of the same accommodation property sales. The Committee did not determine that jurisdictional point and instead turned to the merits of the argument. While the parties made submissions to the panel on the jurisdictional question, it is not a matter this Court has been asked to resolve on appeal and is best left to the Committee to determine on remittal.

“Drennan J.A.”

Drennan J.A.

I concur.

“Schwann J.A.”

Schwann J.A.

I concur.

“McCreary J.A.”

McCreary J.A.