BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF WILLIAM SHELDON) from the decision of the Board of Equalization of Kootenai County for tax year 2006.	APPEAL NO. 06-A-2518) FINAL DECISION) AND ORDER

COMMERCIAL PROPERTY APPEAL

THIS MATTER came on for hearing January 17, 2007, in Coeur d'Alene, Idaho, before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs also participated in this decision. Appellant William Sheldon appeared for himself. Deputy Assessor and Commercial Appraiser Louise Weed appeared for Respondent Kootenai County. This appeal is taken from a decision of the Kootenai County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. C00000110020.

The issue on appeal is the market value of commercial property.

The decision of the Kootenai County Board of Equalization is affirmed.

FINDINGS OF FACT

The subject parcel's assessed land value is $705,602, and the improvements' valuation is $369,743, totaling $1,075,345. At hearing, Appellant amended his value claim to: land $542,771, and improvements $284,418, totaling $827,189 (subject's 2005 assessed value.)

The subject property is 1.154 acres improved with a 15,000 square foot, tilt-up concrete structure built in 1971. The space is described as discount warehouse retail and is currently occupied by an auto parts store. The property is located on a main arterial at a high-traffic intersection. It last sold in January 2004 for $795,000.

Appellant does not dispute the comparable sales used by the County. The appeal seeks a special consideration (discount) due to a fixed-income stream. The property is subject to a 40-year, triple-net, fixed-rate lease. About five years remained on the lease as of the 2006 assessment date. It was noted the County valued the fee simple interest in subject, using market

rent, and gave no consideration to Appellant's limited income potential. Subject's actual rent was reported to be $.18 per square foot per month, triple-net terms.

Respondent valued the subject property in fee simple. It was explained market rent was used in the income approach so that both a landlord's and tenant's interest in the property was reflected. The Assessor explained actual property management or actual lease contracts were not used when valuing property at market value. In addition to providing appraisal work papers and details related to the preparation of subject's 2006 assessment, the County presented some legal cites and definitions particularly related to Appellant's issue on appeal.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Appellant apparently found the 2005 assessment of subject acceptable. However, described the dramatic increase in value for 2006 was too much. In supporting a reduction in the current assessed value, this Board is asked to use or at least consider the actual rents received by Appellant for his interest in the subject property. This is not a new issue in the assessment of property under a market value standard.

As outlined by Respondent, it is the "property" that is subject to assessment. The property -- in fee – is the appraisal/assessment unit. The County correctly made reference to the definition of market value for assessment purposes in Idaho Code and related administrative rules. Individual interests in property are not typically taxed in Idaho. The legal standard is the full market value of the entire property. *Merris v. Ada County*, 100 Idaho 59 at 63, 593 P.2d 394

(1979). This is a foundational pillar of an equitable tax system. Like property should have predictably, and functionally, like assessments. In order to represent market value, the income approach necessarily uses market rent. *The Senator, Inc. v. Ada County, Bd. of Equalization*, 138 Idaho 566, 67 P.3d 45 (2003). Market value, by definition, captures all benefits flowing from the property. *Brandon Bay, Ltd. P'ship v. Payette County*, 142 Idaho 681 (2006).

Actual financial performance is reviewed, but always toward understanding and reflecting the market rent or the typical market income for the property. The County was correct to <u>not</u> discount subject's assessment for the presence of a below-market rental contract. The assessment was demonstrated to be in line with recent market sales and accepted appraisal methods. Idaho Code Sections 63-301(1) and 63-208(1). Appellant did not otherwise support a reduction in subject's assessed value. Therefore the decision of the Kootenai County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Kootenai County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 1st day of May 2007.