BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF JON AND MARDEE WYMAN from the decision of the Board of Equalization of Ada County for tax year 2006.	)))	APPEAL NO. 06-A-2092 FINAL DECISION AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing October 18, 2006, in Boise, Idaho, before Hearing Officer Sandra Tatom. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Jon Wyman appeared for Appellants. Assessor Bob McQuade, Chief Deputy Tim Tallman and Appraisers Paula Gossett and Roderick Stolz appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. R0312260045.

The issue on appeal is the market value of a residential duplex.

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

FINDINGS OF FACT

Subject's assessed land value is $71,300, and the improvements' valuation is $98,400, totaling $169,700. Appellants request the land value be reduced to $42,000, and the improvements' value be reduced to $93,000, totaling $135,000.

The subject property is a .21 acre lot improved with a duplex built in 1977. Subject is located in a cul-de-sac in the West Boise area. The duplex structure is considered to be of fair quality and in fair condition. It was noted there were some minor external defects, such as; peeling paint, cracked window sills, and cracks in the driveway. However, internal upgrades were recently made including; new carpet, vinyl flooring, and paint. The property generates approximately $1,100 per month in income.

Appellants began by noting some less desirable attributes of subject. Specifically, the

property had minor water leakage issues around some windowsills and where the roof connects to the carport. Appellants also report subject has electric heat which is expensive and not desirable to potential tenants. It was noted a portion of the lot is overgrown with weeds and brush, which is contended to make part of the lot unusable.

Appellants objected to Respondent's duplex sales because they were different than the sales presented at the BOE hearing. The record was left open after the hearing to give Appellants an opportunity to examine and respond to the new sales.

Appellants challenged the comparability of Respondent's sales, starting with the duplex sale located on subject's street. Appellants reported "the condition inside and out is the best in the neighborhood." Appellants opined that there were no exterior maintenance issues, though acknowledged the exterior may need to be painted in a few years. It was mentioned the landscaping was superior to subject, and the units had central air and dishwashers not present in subject. Appellants then provided the kitchen cabinets and siding were different than those found in subject and also referenced a problem with subject's plumbing. Appellants contended the costs to cure these problems should have resulted in a lower value for subject.

Next, Appellants argued the sale property located on Irving Court was not comparable because it had a fully fenced yard, whereas subject did not have fencing on approximately 140 feet of the property. Again, the lack of central air in subject was mentioned. It was acknowledged, however, that subject did have an automatic sprinkler system, which was not found on the sale property. Appellants also noted the sale property generated about $1,150 per month in total rental income.

Regarding the County comparable on Ruth Street, Appellants provided "[t]he price paid is exorbitant as there is no way that anyone could conclude with a reasonable sense of real

estate knowledge to pay such a price." Appellants assert this sale property was greatly inferior to the sale property located on subject's street, so should not be considered.

Appellants challenged Respondent's bare lot sales primarily on the basis of location. It was argued that the parcels were located in areas superior to subject's, and that more consideration should have been given this fact when assessing subject.

Appellants also argued that a larger land area is less profitable for a duplex and thus less desirable on account of increased maintenance obligations. It was acknowledged a larger lot would be more desirable for a single-family residence, but not for a duplex. If size was important for duplex lots, Appellants reasoned the one acre lot near subject should be assessed for $350,000 rather than $110,000. Appellants then contended that based on lots in other areas, subject's appropriate lot value should be $38,000.

Respondent mentioned sales data in subject's area indicated that small income properties were in high demand during 2005. Sales of several duplex properties, similar to subject in location, age, quality, and condition, were provided. It was also noted the sale properties had original cabinets and fixtures, and were recently given new carpet and vinyl flooring just as subject. They also had siding and roofing similar to subject. Subject was shown to be a little larger, but adjustments were made to account for differences, including a time adjustment to older sale prices. The referenced properties sold between $171,500 and $174,900.

Respondent also provided several nearby bare lot sales. The lot sizes were between .11 and .37 acres with prices that ranged from $67,000 to $105,000. Respondent additionally submitted a neighborhood grid to illustrate that land in subject's area was equitably assessed.

Respondent agreed that a larger lot is not necessarily more valuable for duplexes, however, mentioned that lot size was only one variable considered in determining property value.

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.

For the purpose of taxation, Idaho prescribes the market value approach as defined by Idaho Code § 63-210(10):

> "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The value of property for purposes of taxation determined by an assessor is presumed correct, and the burden of proof is on the taxpayer to show by [a preponderance of the] evidence that the taxpayer is entitled to the relief claimed. Merris v. Ada County, 100 Idaho 59, 64; 593 P.2d 394, 399 (1979); Ada County v. Sears, Roebuck & Co., 74 Idaho 39, 46-47; 256 P.2d 252, 530 (1953).

Appellants challenged the comparability of Respondent's sales mainly by pointing to defects found in subject. Further, it was contended that the cost to cure such "defects" should reduce subject's value.

Respondent argued the recent sales were comparable to subject in terms of location, age, size, and general condition.

Recent sales of comparable, proximate property have long been held to be a good indicator of market value. While it is true that no two properties are exactly the same, the

evidence in this case suggests Respondent's comparable sales do form a good basis from which to measure subject's market value. Respondent provided a table outlining the various adjustments made for the differences between subject and the sale properties. It was further noted that 2005 produced high demand and appreciation for these types of rental property. Additionally, the cost to cure property defects does not necessarily translate into a proportionate reduction in value. Again, the evidence suggests that these property and value factors were taken into consideration when subject was compared to the sale properties.

Factual determinations are not erroneous when supported by competent and substantial evidence even though conflicting evidence exists. Wulff v. Sun Valley Co., 127 Idaho 71, 73-74; 896 P.2d 979, 981-982 (1995).

Appellants challenged the bare lot sales primarily on the general assertion that they were located in better areas than subject. There is not much in the record to support this claim, as the sales were in subject's area. The parties disagreed on whether the sales were comparable (capable of comparison) to the subject, but the information provided by Respondent indicates reasonable similarity, and as previously noted, adjustments were made to account for differences.

Appellants further claimed inequitable assessment of subject's area compared to other neighborhoods.

Respondent rebutted this by providing a plat map that included individual lot assessments in subject's neighborhood.

The court will grant relief where the valuation fixed by the assessor is manifestly excessive, fraudulent or oppressive; or arbitrary, capricious and erroneous resulting in discrimination against the taxpayer. Roeder Holdings, L.L.C. v. BOE of Ada County, 136 Idaho

809, 41 P.3d 237 (2001); Merris.

Appellants did not provide evidence to support the claim of inequitable assessment, other than the general statement that inequity existed. Respondent, on the other hand, presented a neighborhood grid with lot assessments. Nothing appears out of order regarding neighborhood assessments, nor does there appear to be "discrimination" against subject. That assertion that some other neighborhood may be assessed differently is not compelling without further supporting evidence.

After considering all evidence submitted by both parties, the Board does not find error in subject's 2006 assessment. Reasonable adjustments were made to account for differences in the sale properties compared to subject and nothing in the record indicates inequitable treatment of subject. Appellants did not prove by a preponderance of the evidence that the relief claimed is warranted. Therefore, the decision of the Ada County Board of Equalization is affirmed.

FINAL ORDER

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

DATED this 27th day of April 2007.