

BEFORE THE IDAHO BOARD OF TAX APPEALS

SAMUELSON LIVING TRUST,)	
)	
Appellant,)	APPEAL NOS. 20-A-1090,
)	20-A-1091, 20-A-1092, and
v.)	20-A-1093
)	
KOOTENAI COUNTY,)	FINAL DECISION
)	AND ORDER
Respondent.)	
)	
)	
)	

COMMERCIAL PROPERTY APPEALS

These appeals are taken from four (4) decisions of the Kootenai County Board of Equalization denying appeals of the valuations for taxing purposes on properties described by Parcel Nos. P01000010040, P01000010050, P01000010060, and P0100001007A. The appeals concern the 2020 tax year.

These matters came on for telephonic hearing October 28, 2020, before Board Member Kenneth Nuhn. Trustee Steven Samuelson appeared at hearing for Appellant. Chief Deputy Assessor Joe Johns represented Respondent.

Board Members Leland Heinrich, David Kinghorn, and Kenneth Nuhn join in issuing this decision.

The issue on appeal concerns the market values of four (4) adjacent vacant commercial lots.

The decisions of the Kootenai County Board of Equalization are modified.

FINDINGS OF FACT

Appeal No. 20-A-1090 (Parcel No. P01000010040)

The assessed land value of this .04 acre parcel is \$30,250. Appellant contends the correct land value is \$12,423.

Appeal No. 20-A-1091 (Parcel No. P01000010050)

The assessed land value of this .04 acre parcel is \$30,250. Appellant contends the correct land value is \$12,423.

Appeal No. 20-A-1092 (Parcel No. P01000010060)

The assessed land value of this .21 acre parcel is \$96,800. Appellant contends the correct land value is \$65,222.

Appeal No. 20-A-1093 (Parcel No. P0100001007A)

The assessed land value of this .12 acre parcel is \$84,700. Appellant contends the correct land value is \$37,891.

The subject lots are four (4) adjacent vacant commercial parcels located at the end of a cul-de-sac off of North Idaho Road in Post Falls, Idaho. The subject lots are situated behind a medical office and a pharmacy. While the subject parcels are zoned commercial, much of the surrounding neighborhood is residential.

Appellant argued subjects' current assessed values were overstated, particularly considering their location in a mostly residential neighborhood. Appellant noted the nearest major commercial thoroughfare is several blocks away, and due to subjects' orientation at the end of a cul-de-sac, there is limited visibility from passing traffic. Appellant further highlighted development challenges for the two (2) smaller .04 acre subject lots. Appellant contended the setback requirements would limit the size of any potential commercial building to roughly 1,000 square feet, and there would be no remaining space available for parking. In Appellant's view, these various detriments greatly diminish the marketability of the subject lots, which should be reflected in the current assessments.

In support of its value claims, Appellant offered several items for the Board's consideration. The first was an appraisal prepared by a local commercial fee appraiser. The appraisal report characterized the subject lots as secondary commercial parcels due to "very

little or no visibility from Idaho Road," and suggested demand for commercial use of the parcels "may be lacking." With the limited visibility, the appraisal concluded the subject lots were best suited for offices or service commercial uses, such as medical offices, which do not rely on traffic exposure.

In developing its valuation model, the appraisal considered all four (4) subject lots as a single unit totaling .41 acres in size. Citing subjects' secondary commercial location, the appraisal noted finding comparable sales was difficult because similar commercial lots in Post Falls are mostly located on main commercial arterial roadways with good traffic exposure. Therefore, the appraisal expanded the geographic scope in searching for more comparable sales and found two (2) located in Rathdrum, Idaho, roughly eight (8) miles from Post Falls. Both Rathdrum sales concerned .72 acre vacant commercial lots. The first sale lot was located on the outskirts of Rathdrum, in an area regarded as inferior to subjects' neighborhood. This lot sold in May 2017 for \$95,000, or \$3.03 per square foot. The other Rathdrum sale lot was located in the center of town, with frontage on Highway 41. Though the lot was noted to enjoy superior visibility compared to the subject parcels, the appraisal considered the location generally similar because demand for commercial development in Rathdrum is not particularly strong. This lot sold for \$125,000, or \$5.02 per square foot, in June 2018. The final sale lot included in the analysis was a 1.28 acre lot located in Post Falls. This lot was zoned for higher-density residential development. The parcel sold in February 2018 for \$225,000, or \$4.04 per square foot. The subject lots were assessed at an overall rate of \$15.31 per square foot.

Respondent challenged the comparability of the three (3) sales included in the appraisal report. Of particular concern was the location of the two (2) sale lots in Rathdrum. In

Respondent's view, the Rathdrum market bears little resemblance to the Post Falls market, and therefore the Rathdrum sales should not be used to value the subject parcels. Respondent also highlighted the larger size of the sale properties compared to the subject lots and explained larger parcels typically sell for less per square foot than smaller parcels. In Respondent's opinion, the appraisal's failure to make adjustments to the sales for location, size, and time of sale were critical failures in the analysis.

In addition to the appraisal report, Appellant offered a couple other comparative analyses in support of reducing subjects' assessed values. Utilizing the same three (3) sales properties included in the appraisal report, Appellant pointed out the 2020 assessed values of the lots were \$5.75, \$3.29, and \$5.25 per square foot, respectively, or an average of \$4.76 per square foot. Appellant argued subjects' current valuations should more closely approximate the assessment rates of these three (3) sales.

Appellant's next analysis examined assessed values of six (6) Post Falls sales from 2018 and 2019 not included in the appraisal report. Four (4) of the sale properties were improved at the time of sale, and two (2) were vacant. The parcels ranged in size from .20 to 5.19 acres in size and in sale price from \$80,000 to \$1,614,200, or from \$5.53 to \$10.33 per square foot. These same properties had current assessed values ranging from \$95,000 to \$1,270,518, or from \$5.39 to \$10.90 per square foot. Appellant calculated an overall average assessment rate of \$7.51 per square foot for all six (6) sales, and an average rate of \$8.82 per square foot for the three (3) smallest parcels.

Respondent challenged the comparability of the properties included in Appellant's second analysis. Again, the sizes of the sale properties were highlighted as a notable

difference compared to the subject parcels. Respondent also pointed out four (4) of the sale properties were improved, so were not comparable to the vacant subject lots. And the two (2) vacant lots included in the data set were residential parcels, likewise characterized as non comparable. In all, Respondent did not regard the comparative analysis as the best evidence of subjects' current market values.

Appellant's final analysis examined assessed values of seven (7) additional commercial properties located in Post Falls. The parcels ranged in size from .14 to 2.90 acres, and assessed values ranged from \$58,066 to \$914,269, or from \$2.51 to \$11.53 per square foot. Appellant calculated an overall average assessment rate of \$7.81 per square foot for the seven (7) properties. Focusing on the four (4) smallest lots, ranging from .14 to .28 acres in size, Appellant reported an average assessment rate of \$8.99 per square foot. Appellant regarded each of the seven (7) properties as superior to subject, so questioned why subjects' assessment rates were notably higher.

Respondent again challenged the comparability of the properties included in Appellant's third comparative analysis. It was noted, with the exception of one (1) parcel, all the properties were improved and therefore not comparable. Respondent also highlighted the notably larger sizes of two (2) of the referenced parcels. And lastly, Respondent pointed out a couple of the properties were parking lots dependent on use by adjacent commercial businesses. Respondent disputed the relevance of this assessment data.

In support of subjects' current valuations, Respondent offered information concerning four (4) commercial sales from Post Falls. Sale No. 1 was a .14 acre parcel located on the other side of Interstate 90 from subjects, which sold in September 2018. The actual sale price

was not shared, though Respondent reported a time-adjusted price of \$95,588, or \$15.90 per square foot. Sale No. 2 concerned a .16 acre commercial parcel which sold in December 2018 with a time-adjusted sale price of \$127,996, or \$18.84 per square foot. This sale property was located down the street from Sale No. 1. Respondent's Sale Nos. 3 and 4 were both located on North Spokane Street, noted to be a primary commercial thoroughfare running north and south through Post Falls. Sale No. 3 was a .29 acre parcel which sold in October 2018 with a time-adjusted sale price of \$184,854, or \$14.68 per square foot. Lastly, Sale No. 4 was a .29 acre parcel which sold in July 2019 with a time-adjusted sale price of \$172,791, or \$13.73 per square foot. Respondent calculated an overall time-adjusted sale price rate of \$15.79 per square foot, and argued subjects' overall assessment rate of \$15.31 per square foot was reasonable by comparison.

Appellant disputed the comparability of Respondent's sale properties to the subject parcels. First it was noted, contrary to Respondent's assertion that Sale Nos. 1 and 2 were vacant commercial lots, both were actually improved at the time of sale. Sale No. 1 was noted to house a talent agency, and Sale No. 2 was the site of a pie shop. As for Sale Nos. 3 and 4, Appellant explained both were located on one of the primary commercial corridors in Post Falls, and both were therefore superior to subjects' secondary location located roughly five (5) blocks from North Spokane Street, with limited exposure to passing traffic. In Appellant's view, all four (4) of Respondent's sale properties were superior to the subject lots and thus should not be used to support subjects' valuations.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to

support a determination of market value in fee simple interest, or, as applicable, a property's exempt status. This Board, giving full opportunity for all arguments and having considered all the testimony and documentary evidence submitted by the parties, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2020, in this case. Market value is always estimated as of a precise point in time. Idaho Code § 63-201 provides the following definition,

“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.

Market value is estimated according to recognized appraisal methods and techniques. The sales comparison approach, the cost approach, and the income approach comprise the three (3) primary methods for determining market value. *Merris v. Ada Cnty.*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). The sales comparison approach is typically used to estimate the value of vacant commercial property, which in basic terms examines recent sales of similar property and considers adjustments for differences in property characteristics compared to the subject property.

Neither party developed a traditional sales comparison model in support of their respective value positions, though both parties did provide some sales data, which efforts were appreciated by the Board. That being said, there were concerns with some of the information and analysis offered. Appellant focused primarily on a comparison of subjects' assessed values to the assessments of other commercial properties. In each of the three (3) comparative assessment analyses provided, the subject lots were shown to be assessed at an appreciably

higher per-square-foot rate than the properties included in the respective analyses. While the Board understands Appellant's concerns in this regard, a comparison of assessed values is not a recognized appraisal approach. Further, the fact subjects were assessed at a higher rate than certain other commercial properties is not in itself evidence of inequitable assessment. "[W]e will not correct mere mistakes or errors of judgment on the part of an assessor, but 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." *C. C. Anderson Stores Co. v. State Tax Com'n*, 86 Idaho 249, 384 P.2d 677, at 679-680 (1963). Based on the record in this case, the Board did not find the subject lots were assessed inequitably.

Turning now to the sales data offered by the parties, the Board likewise identified several areas of concern. Of the seven (7) sales included in Appellant's second comparative analysis, five (5) were noted to be improved properties in excess of one (1) acre in size, and the two (2) vacant lots were residential parcels, not commercial. The subject parcels are small commercial lots which bear little resemblance to the sales included in Appellant's analysis. Such notable differences in size and property type make comparisons with the subject lots difficult without significant adjustments. As such, minimal weight was afforded these seven (7) sales.

With respect to Respondent's sales data, the Board was also left questioning the comparability of the sale properties to the subject lots. Though closer in size to the subject lots, the similarities appeared to largely end there. According to the photographs provided by Appellant, all four (4) of the sale properties were improved, contrary to Respondent's

representation that two (2) were vacant lots. Using improved sale properties to estimate the value of a vacant lot is inherently problematic and unreliable. It was also not lost on the Board Respondent's primary criticism of Appellant's sales data was that some of the parcels were improved at the time of sale. Respondent also criticized Appellant's use of improved properties for comparison with subjects. The locations of Respondent's sales was another issue, with two (2) of the sale parcels situated on the other side of the freeway and two (2) located on a primary commercial boulevard in Post Falls. The subject lots, by contrast, are located at the end of a cul-de-sac with poor visibility to passing traffic in a mostly residential neighborhood. Based on the reported time-adjusted sale price rates, it does not appear any consideration was given for subjects' less desirable commercial location.

The remaining value evidence consisted of the fee appraisal report offered by Appellant. While the Board did identify several areas of concern, the Board did find the appraisal's consideration of the subject lots as a single unit appropriate in this instance; particularly where the two (2) .04 acre subject lots are too small to allow for any substantial commercial improvements. It is likely, in the Board's view, the subject lots would be purchased together and used as a single commercial property, or perhaps combined into two (2) commercial lots. Though the subject lots are separate parcels and could legally be sold individually, the irregular shape and small size render such a scenario unlikely.

As for the three (3) lots sales included in the appraisal, there were some clear dissimilarities compared to the subject lots. Primarily, these differences were lot size and location, for which the appraisal made no adjustments. Also, the appraisal did not apply any time adjustments to the sale prices despite a generally appreciating market over the past

several years. These were found to be key weaknesses in the appraisal's sales comparison model and rendered the final value conclusion unreliable in the Board's opinion.

Pursuant to Idaho Code § 63-511, the Appellant bears the burden of proving error in subjects' valuations by a preponderance of the evidence. While there were concerns with some of the information provided, the Board did find the burden of proof satisfied, though did not find sufficient support for the values petitioned by Appellant. Giving consideration to the subject lots' irregular shapes, sizes, and poor commercial location, the Board will reduce the combined value of the lots to \$135,000.

Based on the above, the decisions of the Kootenai County Board of Equalization are modified.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Kootenai County Board of Equalization concerning the subject parcels be, and the same hereby are, MODIFIED as follows:

Appeal No. 20-A-1090 (Parcel No. P01000010040) - \$16,875

Appeal No. 20-A-1091 (Parcel No. P01000010050) - \$16,875

Appeal No. 20-A-1092 (Parcel No. P01000010060) - \$47,250

Appeal No. 20-A-1093 (Parcel No. P0100001007A) - \$54,000

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered values for the current tax year shall not be increased in the subsequent assessment year.

DATED this 9th day of February, 2021.