

BEFORE THE IDAHO BOARD OF TAX APPEALS

CALL TAYSOM WEST, LLC,	)	
	)	
Appellant,	)	APPEAL NO. 21-A-1020
	)	
v.	)	FINAL DECISION AND ORDER
	)	
BANNOCK COUNTY,	)	
	)	
Respondent.	)	
	)	
_____	)	

**COMMERCIAL PROPERTY APPEAL**

This appeal is taken from a decision of the Bannock County Board of Equalization modifying an appeal of the valuation for taxing purposes on property described by Parcel No. RPRPCPP087116. The appeal concerns the 2021 tax year.

This matter came on for telephonic hearing October 25, 2021, before Board Member Leland Heinrich. Wayne Taysom appeared at hearing for Appellant. Appraiser Jason Hooker represented Respondent.

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

**The issue on appeal concerns the market value of an unimproved commercial lot.**

**The decision of the Bannock County Board of Equalization is modified.**

**FINDINGS OF FACT**

The assessed land value is \$686,168. Appellant contends the correct land value is \$284,960.

The subject property is an unimproved 2.59 acre commercial parcel located in a medical business park in southeastern Pocatello, Idaho.

Appellant was concerned with the increase in subject's assessed value, which increased from \$284,690 in 2020 to \$902,560<sup>1</sup> for 2021. Appellant contended insufficient consideration was afforded several issues impacting the market value of the parcel. First, Appellant disputed the 2.59 acre size reflected in Respondent's records. Based on the measurements taken by a local engineering company, the subject parcel is 2.23 acres in size. Of this total size, Appellant reported .73 acres is encumbered with dedicated roadways and rights-of-way, and roughly .27 acres is steeply sloped, leaving 1.23 acres of buildable area. In addition to the restricted building area, Appellant noted subject's ingress/egress point is narrow. According to Appellant, the width of the ingress/egress point is roughly 100 feet, which was characterized as rather narrow for a commercial property.

Respondent agreed the area consumed by roads and rights-of-way should be categorized as waste and excluded from the valuation. In Respondent's estimation, subject has approximately 1.969 acres of "likely" buildable space. Respondent also argued no adjustment should be given for the sloped portions of the parcel because the topography is typical for the area and not unique to subject.

Appellant further explained the covenants of the medical park dictate that only a medically affiliated business is allowed to utilize the subject property, which limits the pool of potential buyers. Appellant also pointed out the roads, utilities, water, and streetlights in the medical park are privately owned and maintained, including snow removal. In Appellant's view, the extra costs associated with maintenance of the roads, utilities, and

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<sup>1</sup> The original assessed value of \$902,560 was reduced by the Bannock County Board of Equalization to \$686,168.

amenities adversely impact the price a buyer would be willing to pay for the subject property.

Appellant next argued subject's close proximity to an active electrical substation was insufficiently considered in the current valuation. Appellant provided information from several sources concerning the possible health risks associated with prolonged exposure to the electromagnetic fields produced by power substations. Appellant also mentioned concerns regarding whether the electromagnetic fields could potentially interfere with the high-grade medical equipment and devices used by medical facilities, which is the only type of business allowed to operate on the subject property per the restrictive covenants. Appellant reported several potential buyers over the last thirty (30) years the property has been marketed for sale have cited the lot's proximity to the substation as a factor in the decision to not purchase the property. Respondent maintained no special adjustment was warranted for the substation, because there was no evidence in the marketplace that proximity to an electrical substation negatively impacts market value.

Lastly, Appellant provided some limited assessment information concerning other commercial properties. Sizes of the referenced parcels varied from roughly .93 to 16.99 acres and ranged in assessed land value from \$1,572 to \$346,500 per acre, with an average of \$188,310 per acre. Using the average assessment rate, Appellant calculated a base value of \$231,622 for subject's 1.23 buildable acres. In an effort to account for the limited ingress/egress and proximity to the electrical substation, Appellant applied downward adjustments to the base value of 15% and 25%, respectively, resulting in a value conclusion of \$138,973 for the subject lot. Appellant argued this figure best

represented subject's current market value and petitioned the Board to change subject's assessment accordingly.

Respondent first explained commercial sales in subject's area were scarce. With that in mind, Respondent provided information on three (3) commercial sales which occurred in 2007, 2010, and 2018. The two (2) older sales were parcels owned by Appellant and are located across the street from the subject lot. Individual sale prices were not shared; however, Respondent reported a combined sale price of \$1,001,880, or \$9.06 per square foot for both parcels. The remaining property, located a mile or so from subject, sold for \$850,000, or \$8.64 per square foot.

In addition to the above sales information, Respondent provided assessment data on six (6) other parcels located in subject's immediate area. Lot sizes ranged from roughly .93 to 3.05 acres and assessed land values ranged from \$324,100 to \$862,864, or from \$6.49 to \$8.35 per square foot. Respondent assessed subject's 1.97 usable acres at \$8 per square foot, which equates to an overall assessment rate of \$6.11 per square foot when subject's entire acreage is included in the per-square-foot calculation. Respondent maintained subject's current valuation was consistent with other parcels in the immediate area and argued no further reduction was warranted.

### 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 the market value of real property. *Merris v. Ada Cnty.*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Unimproved parcels are commonly valued using the sales comparison approach. In basic terms, the sales comparison approach compares recent sales of similar property to the subject parcel and considers adjustments for differences in property characteristics.

Neither party developed a traditional sales comparison approach model in support of their respective value positions. Rather, Appellant relied primarily on assessed land values of other commercial properties in support of reducing subject's valuation. Respondent too, offered some limited assessment information for parcels located in subject's immediate neighborhood and maintained subject was assessed consistently with other properties in the area. While the Board appreciates the parties' respective positions, a comparison of assessed values is not a recognized appraisal approach, particularly where there were so few details concerning the other properties, and little indication as to whether they shared similarities with subject other than being commercial

parcels located in subject's area. As a result, the Board placed little weight on the assessment information in its consideration of subject's market value.

Respondent also provided some sales data in support of subject's current valuation. The Board's primary concerns with the three (3) sales offered were that two (2) of the sales occurred more than a decade ago, which is rather stale market data. Also, there were too few physical details about the sale properties to make any meaningful comparison with the subject lot. The Board understands commercial sales in subject's neighborhood are limited, which limits the market data Respondent has available to determine an appropriate value for the subject lot. That being said, it was not clear how subject's current valuation correlated to the sales data provided.

Though Appellant did submit some assessment data, Appellant's primary argument was insufficient consideration was given to several negative attributes affecting the subject property. Specifically, Appellant pointed to subject's close proximity to an electrical substation, the medical park's covenants which restrict the type of business which is permitted to use the subject property, and the narrow ingress/egress point of the property. While the nearby substation could potentially influence subject's value, there is no market data in the record to demonstrate any such impact on value. The same can be said for the restrictive covenants argued by Appellant to negatively affect subject's market value. In fact, it could be argued the covenants enhance the value by ensuring a consistent commercial use throughout the medical park. In short, there was no support in the record that restrictive covenants negatively impact market value generally, or subject's value specifically.

The Board reached a different conclusion with respect to subject's narrow access point. In the Board's experience, a commercial property's ingress/egress can materially impact its value, particularly in terms of customer volume and anticipated revenue. Respondent gave no consideration to subject's limited access, which the Board finds was in error. An adjustment should be made for the narrow access in this particular instance.

The last issue raised in this appeal concerned the amount of buildable area the subject lot enjoys. The parties agreed the areas consumed with roadways and rights-of-way should be considered waste and excluded from the assessment; however, they differed on how much of the subject lot was so encumbered. Appellant reported .73 acres in roadways and easements, which figure came from measurements taken by an engineering firm. Respondent estimated the roadways covered .61 acres, though the source of that measurement was not shared.

As a matter of law, Respondent's records enjoy a presumption of correctness; however, the presumption is lost when faced with competent evidence of a potential error. At that point, the burden shifts to Respondent to prove the correctness of its information. In the case at bar, Appellant's measurements came from a professional engineering firm, which is competent evidence in the Board's view. The burden, therefore, shifted to Respondent to prove its size estimate was more accurate; however, no such proof was offered. As a result, and for purposes of this decision only, the Board will accept Appellant's measurement of .73 acres as the area encumbered with roadways and easements.

Appellant additionally argued the steeply sloped portions of subject should likewise be excluded from the valuation because those portions are unbuildable in Appellant's

estimation. Respondent argued no adjustment was necessary because subject's topography was typical for the area. While subject's topography may not be unique, it certainly does present some challenges in terms of the development of the parcel. Sloped topography does not necessarily render a property unbuildable, but leveling the building site could be costly, and would likely influence a potential buyer's purchase decision. This was found to be a weakness in Respondent's comparison of assessed values, wherein the unimproved subject lot was compared to fully developed commercial properties which had already borne the cost of installing onsite improvements and any needed leveling work. In the Board's experience, the higher cost associated with developing a building site, the lower the purchase price tends to be. In short, the Board finds some additional consideration should be given for subject's topography.

Idaho Code § 63-511 places the burden on the Appellant to demonstrate error in subject's valuation by a preponderance of the evidence. Given the record in this matter, the Board finds the burden of proof satisfied, though did not find sufficient support for the value petitioned by Appellant. Using Appellant's buildable area measurement of 1.23 acres, and using Respondent's standard \$8 per square foot assessment rate with extra consideration given for the limited ingress/egress, the Board will reduce subject's land value to \$321,473.

Based on the above, the decision of the Bannock County Board of Equalization is modified.



FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bannock County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease to \$321,473.

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 value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 27<sup>th</sup> day of December, 2021.

IDAHO BOARD OF TAX APPEALS