BEFORE THE IDAHO BOARD OF TAX APPEALS

CCN2, LLC,	)	
Appellant,	)	APPEAL NO. 22-A-1142
v.	)	FINAL DECISION AND ORDER
PAYETTE COUNTY,	)	
Respondent.	)	

COMMERCIAL PROPERTY APPEAL

This appeal is taken from a decision of the Payette County Board of Equalization denying an appeal of the valuation for taxing purposes on property described by Parcel No. P1940024000C. The appeal concerns the 2022 tax year.

This matter came on for telephonic (Zoom) hearing December 6, 2022, before Hearing Officer Travis VanLith. Manager Craig Nielsen appeared at hearing for Appellant. Payette County Assessor Edie Aldridge represented Respondent.

Board Members Leland Heinrich, Kenneth Nuhn, and Doug Wallis join in issuing this decision.

The issue on appeal concerns the market value of an improved commercial property.

The decision of the Payette County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is $101,696, and the improvements' value is $296,645, totaling $398,341. Appellant contends the correct land value is $73,593, and the improvements' value is $211,204, totaling $284,797.

The subject property is a .46 acre commercial parcel located in Payette, Idaho. The property is improved with two (2) single-level multi-tenant commercial buildings. The older commercial building, constructed in 1960, is a four (4) unit retail building with a total of 2,496 square feet. The other subject building is a 2,000 square foot structure comprised of two (2) mixed-use commercial units constructed in 1993.

Appellant disagreed with subject's current assessed value and argued the property was assessed inequitably compared to other commercial properties in the immediate area. In this regard, Appellant offered assessment information for three (3) nearby active commercial properties. The first was an automobile repair business across the street. The 41,687 square foot (0.96 acres) lot was improved with a 3,854 square foot building constructed in 1954. The current assessed land value is $178,484, or $4.28 per square foot, and the value of the improvements is $162,539, or $42.17 per square foot. Appellant next referenced the motel property adjacent to the auto repair business. The 4,184 square foot single-level hotel building constructed in 1960 with an assessed value of $148,917, or $35.59 per square foot, is situated on a 30,708 square foot (0.70 acres) lot valued at $95,102, or $3.10 per square foot. The third property in the group was a 43,560 square foot (1.0 acre) lot diagonally across the intersection from subject improved with a 2,400 square foot commercial shop building constructed in 1985 and used in a tire service and repair business. The assessed land value is $125,000, or $2.87 per square foot, and the improvements are valued at $81,599, or $34.00 per square foot.

Appellant stressed subject's land and improvement values, at $5.08 and $64.85 per square foot, respectively, are higher than all three (3) of the above commercial properties despite the relative similarity between the properties. In calculating an average assessment rate of $3.68 per square foot for the land and $45.84 per square foot for the improvements, Appellant included subject's current assessment rates in the data set.

Applying the average rates to subject’s land and improvements components yielded a land value of $73,593 and a value of $206,104 for the commercial improvements. After adding the $5,100 value of the other improvements, Appellant concluded a value of $284,797 for the subject property and petitioned the Board to reduce the valuation accordingly.

Respondent explained due to the rapidly escalating market during 2021, commercial values were trended aggressively in an effort to reach market levels for the 2022 assessment year. Specific trend factors were not shared, but subject’s assessed value increased 45% over the 2021 valuation. Respondent considered all three (3) recognized appraisal approaches in support of subject’s current assessed value, though the cost approach was ultimately not used due to the older age of the subject buildings and the difficulty associated with accurately estimating an appropriate amount of depreciation.

Respondent’s sales analysis began with a discussion[1] of historical commercial market trends in Payette. According to Respondent, commercial values have steadily increased from 2010 to 2020. Respondent reported nineteen (19) commercial sales during that period showing escalating prices leading to the current year. Though no specific details were shared, Respondent indicated there were roughly six (6) commercial sales during the last couple years. Respondent reported an average sale price of approximately $75 per square foot for these recent sales. Respondent additionally

[1] The sole source of Respondent’s evidence was verbal testimony, as its documentary exhibits were not filed prior to the duly-noticed hearing. As this was a telephonic hearing, the parties were ordered to pre-file all exhibit materials by November 25, 2023. Respondent did not pre-file any exhibits, so none were available for the hearing. Appellant’s exhibit materials were filed in accordance with the Board’s instructions and were admitted into the record.

commented there was one (1) recent sale price at $117 per square foot which was notably higher than subject's assessed value of $88.60 per square foot.

As Respondent did not have income and expense information for the subject property, its income approach model was developed using market rates. Respondent utilized $6.89 per square foot to calculate a potential gross income of nearly $28,000. Applying a 20% expense rate yielded a net operating income figure of roughly $22,000. Respondent capitalized the net operating income at 6.8% and calculated a final value of $341,906 for the subject property. Respondent acknowledged its income model produced a somewhat lower value estimate than subject's current assessed value, but maintained the assessed value was the more reliable figure because the trend factor that determined the assessed value was developed using recent market sales.

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, 2022, 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. There are three (3) approaches to value: the sales comparison approach, the cost approach, and the income approach. *Merris v. Ada Cnty.*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). The income and sales comparison approaches are commonly used to estimate the market value of commercial property, though the income approach is often prioritized because such properties typically trade based on their potential to generate income.

Appellant's value position was not developed using any of the recognized approaches to value, but rather through an analysis of assessed values of several commercial properties in subject's immediate proximity. In short, as the assessment rates of subject's land and improvements were higher than the other properties in the group, Appellant argued subject was assessed inequitably. Though Appellant's concerns are understandable, the Board was not persuaded the assessment data shared by Appellant demonstrated inequitable assessment treatment of the subject property for several reasons.

The basis for Appellant's claim of inequitable assessment was a comparison of valuation rates on the basis of square footage. One weakness with this type of unit-based comparative analysis is that the things being compared must be highly similar to each other in order to make any meaningful comparisons. In the context of commercial parcels, this starts with similar lot sizes because economies of scale dictate that the value per square foot decreases as the size of a parcel increases. In the case at bar, all three (3) of the commercial properties referenced by Appellant were considerably larger than the subject lot, by roughly 50% to 120%, so the lower assessment rates per square foot than applied to subject's much smaller lot is to be expected and is not evidence of inequitable assessment.

Not only were Appellant's referenced properties larger than the subject lot, but two (2) of the properties did not enjoy the same level of traffic exposure as subject. The subject property is a corner lot at the busy intersection of Main Street and 6th Avenue South, with frontage on both streets. The two (2) lowest valued land values in Appellant's group were the motel and tire repair businesses, neither of which occupy corner locations so only have frontage on Main Street. The highest land value rate was $4.28 per square foot for the auto repair shop across the street, which is also a corner lot like subject with frontage on Main Street and 6th Avenue South. Subject's land was assessed a little higher, at $5.08 per square foot, but the lot is less than one-half (½) the size of the auto repair lot, at 20,000 square feet versus 41,687 square feet, so subject's land rate should be higher.

The Board had similar concerns with respect to Appellant's comparison of assessed improvement values. While similar in age, there were few other commonalities between subject's improvements and those of the properties referenced by Appellant. Not only were sizes of the improvements widely divergent, ranging from 2,400 to 4,184 square feet, the commercial uses and building types were not comparable. There are a total of six (6) office/retail spaces in the two (2) subject buildings, whereas the other properties in the group were purpose-built single tenant structures, including two (2) of the referenced automotive shop buildings, which is an entirely different category than subject's office/retail buildings. In all, the Board did not view the different rates applied to subject's improvements as inequitable assessment, but rather simply a reflection of the different commercial building types which would naturally have different market values.

Demonstrating some variance in assessed values between properties, particularly when there are fundamental differences in property characteristics, is insufficient to prove inequitable assessment. The Idaho Supreme Court has more than once articulated the bar for proving inequitable treatment is notably higher; "an individual who claims that a selective assessment procedure had deprived him . . . of the protection guaranteed by the state constitutional requirement of uniformity of taxation must show a deliberate plan to discriminate based upon an unjustifiable or arbitrary classification." *Xerox Corp. v. Ada Cnty. Assessor*, 101 Idaho 138, 144, 609 P.2d 1129, 1135 (1980). There were perhaps some questions regarding the specifics of Respondent's valuation methodology, but nothing in the record indicated subject's assessed value was the result of a deliberately discriminatory valuation plan based on an unjustifiable or arbitrary classification.

Though no inequitable assessment was identified, the Board was ultimately not convinced subject's assessed value of nearly $400,000 is an accurate reflection of the property's current market value. Respondent contended commercial sales activity the last couple years supported subject's valuation, but with zero details concerning any particular sale property and no specific sale prices provided, the Board was unable to reach a similar conclusion. In fact, other than a passing reference to a recent $117 per square foot sale price for an unknown commercial property, the only sale price information Respondent shared was an average price rate of $75 per square foot for an undisclosed number of relatively recent commercial sales. The Board's analysis would have certainly benefited from a more detailed record concerning Respondent's sales data and valuation methodology, but where the only market value indicator was the $75 per square foot average price rate reported by Respondent, the Board was strained to find justification for subject's higher overall valuation rate of $88.60 per square foot. Nothing in the record suggested subject was unique or otherwise demonstrably superior to warrant a valuation rate above the average of the sales.

The only other indication of subject's market value was Respondent's income approach. Again, the Board would have preferred more details and support for the various inputs into Respondent's income model, but where such details are not available, the Board is left with the roughly $342,000 value conclusion as the only value indication under the income approach. Interestingly, applying the $75 per square foot average price rate from Respondent's sales data to subject's improvements yields a total value of approximately $338,000, which closely approximates Respondent's income approach value.

The burden of establishing error in subject's assessed valuation by a preponderance of the evidence is on Appellant. Idaho Code § 63-511. Given the record in this matter, the Board did not find proof of inequitable assessment treatment but did find evidence subject's current assessed value is overstated. The only market value data in this case consisted of Respondent's income approach model and testimony about an average commercial sale price rate of $75 per square foot. As both of these indicators support a lower valuation for the subject property, the Board will modify the decision of the Payette County Board of Equalization and reduce subject's total assessed value to $340,000.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Payette County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in total assessed value to $340,000, with $101,696 attributable to the land and $238,304 to the improvements.

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 26th day of April, 2023.