

BEFORE THE IDAHO BOARD OF TAX APPEALS

SHJH, LLC,)	
)	
Appellant,)	APPEAL NO. 22-A-1217
)	
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 denying an appeal of the valuation for taxing purposes on property described by Parcel No. RPRCRWS000201. The appeal concerns the 2022 tax year.

This matter came on for hearing December 12, 2022, in Pocatello, Idaho, before Board Member Leland Heinrich. Managing Member Scott Harris appeared at hearing for Appellant. Bannock County Chief Deputy Assessor Anita Hymas 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 Bannock County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$1,892,765, and the improvements' value is \$13,683,865, totaling \$15,576,630. Appellant contends the correct land value is \$900,000, and the improvements' value is \$10,100,000, totaling \$11,000,000.

The subject property is a 6.11 acre commercial parcel located on Hawthorne Road in Chubbuck, Idaho. The subject property is a multi-family apartment complex known

locally as the Hawthorne Gardens Apartments. The development consists of 150 apartment units across six (6) buildings, totaling 164,000 square feet of living space. In addition to carports and some garages, amenities include a clubhouse, pool, and hot tub.

Appellant was primarily concerned the subject property was assessed inequitably with other apartment complexes in the area. Appellant characterized the 57% increase in subject's total assessed value above the 2021 valuation and the roughly 61% increase over the prior two (2) years as unrealistic and unfair. Though specific values were not shared, Appellant reported several competing apartment developments realized decreases in assessed value over the same period, including a 23% reduction for the Pineridge Apartments complex and a 10% decrease for the Kirkwood Meadows development. Appellant contended subject's current valuation places the project at a competitive disadvantage due to a higher property tax obligation.

Appellant also believed subject's land value was not assessed consistently with other commercial properties in the area. Of particular concern was assessment of the Northgate Apartments development, which is a 220-unit complex constructed in 2021. Appellant noted Northgate Apartments is the newest complex in the market and is fitted with state-of-the-art facilities and amenities. Appellant stated the land for Northgate Apartments is assessed at approximately \$202,000 per acre, though the acreage and total land value were not shared. Appellant also referenced a recent vacant lot sale near the high school which sold within the last year for \$194,000 per acre, though the sale price and acreage figures were not provided. Lastly, Appellant reported the assessed land value of the Pinewood Mall parcel is \$175,000 per acre. In Appellant's view, the roughly

\$309,000 per acre valuation of subject's 6.11 acres was grossly excessive compared to land value rates applied to the referenced commercial properties.

Respondent explained a new commercial land value schedule was developed for the 2022 assessment year based on vacant sales from the prior several years. The schedule evaluates parcels on a per-square-foot basis. Details of the schedule were scant, but Respondent stated the model was consistent with general principles of economies of scale, meaning smaller lots are valued at a higher rate per square foot than larger parcels. Respondent testified the subject property, as well as the properties referenced by Appellant, were all assessed using the same land table, but the rates differ due to variances in acreage. For instance, Respondent noted the Pinewood Mall parcel is assessed at approximately \$4 per square foot, but the parcel is roughly five (5) times larger than the subject lot, so a lower valuation rate is to be expected than the \$7.11 per square foot rate for subject's land.

In terms of how subject's assessed value was determined, Respondent explained that while all three (3) recognized approaches to value were considered, the cost approach was used to assess the subject property. It was noted the cost approach is used for all commercial properties because Respondent has been unable to gather sufficient rental data to develop commercial values using the income approach. Likewise, there are generally not enough commercial sales in the county in any given year to perform a meaningful sales comparison approach. Therefore, Respondent is left with the cost approach to assess commercial properties.

Though not used in determining subject's assessed value, Respondent did offer limited information on two (2) older apartment complex sales. The first was a 24-unit

development constructed in 2019 and sold in November 2019 for \$2,342,000, or nearly \$89 per square foot. The second sale was the September 2020 purchase of a 32-unit complex constructed in 2019 for a price of \$3,350,000, or \$81.03 per square foot. The subject property is assessed at \$94.98 per square foot, which was reasonable in Respondent's opinion because the subject complex is superior to the sale properties.

Respondent additionally provided some assessment data for three (3) apartment complexes regarded as competitors with the subject development. The first was a 32-unit complex constructed in 2020 with an assessed value of nearly \$4,000,000, or \$105 per square foot. Next was the newly constructed Northgate Apartments development, which had only forty-eight (48) finished rental units as of January 1, 2022. Respondent reported a value of roughly \$10,700,000, or \$229 per square foot and stressed this was more than double the \$95 per square foot assessment rate of the subject property. Last was an 18-unit complex constructed in 1999 with a current assessed value of nearly \$1,800,000, or \$86 per square foot. Based on the assessment information, Respondent maintained subject was assessed equitably with like-kind properties in the area.

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. 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).

Appellant was concerned the subject property was assessed inequitably with competing apartment complexes both in terms of the percentage increase over the prior year’s assessed value and in the valuation rate applied to the land. Appellant asserted the assessed values of a couple other apartment properties had decreased over the prior couple years, whereas subject’s value has increased more than 60%. Appellant also took issue with subject’s land value being higher than several other commercial properties in the area on a per-acre basis. In Appellant’s view, there was no reasonable explanation for subject’s higher valuation, other than inequitable assessment.

The Board appreciates Appellant’s concerns with respect to potential inequitable assessment, but the record in this case did not demonstrate the subject property was a victim of such inequity. Appellant’s claims that the assessed values of at least two (2) apartment complexes have decreased over the prior couple years while subject’s value has rapidly increased were not supported by any specific details or documentation.

Appellant did not provide the assessed values of the referenced properties, let alone any details related to the characteristics of the properties. Even if the limited figures shared by Appellant were accurate, they represent only a couple data points, which is insufficient to demonstrate inequitable assessment. In short, support was found lacking for Appellant's assertion the subject property was treated differently.

The Board likewise identified no inequitable assessment with respect to subject's higher land value rate than several other commercial properties. The parcels referenced by Appellant were significantly larger than subject's 6.11 acres, so it is not surprising they are assessed at a lower rate per acre. Indeed, economies of scale dictate exactly such a result. This also illustrates the inherent weakness in Appellant's unit-based comparison methodology; namely that in order to make meaningful comparisons on a per unit basis, the things being compared must be highly similar. In the case at bar, one (1) of Appellant's comparisons was between subject's 6.11 acre lot and the Pinewood Mall parcel which is approximately thirty (30) acres in size. This is an invalid comparison, as the only commonalities between the two (2) properties are location and commercial classification. Appellant's comparative methodology fails to recognize the influence size has on value, which is inconsistent with how property generally transacts in the marketplace.

With respect to inequitable assessment, the Idaho Supreme Court has commented,

The requirement that all property be assessed at its actual cash value is secondary to the constitutional mandate of equality of taxation. Where certain property is assessed at a higher valuation than all other property, the court will enforce the requirement of uniformity by a reduction of the taxes on the property assessed at the higher valuation, if it be shown that the difference is the result not of mere error in judgment, but of fraud or of intentional and systematic discrimination.

Washington Cnty. v. First Nat'l Bank, 35 Idaho 438, 444, 206 P. 1054, 1056 (1922).

Respondent testified all commercial land values in the area were determined using the same land schedule, which takes into account parcel size. This size consideration was evidenced in the difference between the \$7.11 per square foot rate applied to subject's 6.11 acres and the roughly \$4.00 per square foot rate applied to the thirty (30) acre shopping mall parcel. The subject property's valuation was not the result of intentional and systematic discrimination; rather, subject was assessed using the same methodology employed in the assessment of all commercial parcels in the area. In all, the Board did not see where the subject property was assessed inequitably.

While there was insufficient evidence of inequitable assessment, there was some question as to whether subject's assessed value is at market. Subject's value was determined through the cost approach, which is somewhat uncommon for commercial properties, as such property types are typically evaluated based on their income production potential, using the income approach. The cost approach is generally regarded as less reliable as the age of the improvements increase due to the difficulty in accurately estimating depreciation. However, as Respondent stated there was insufficient sales or income data to develop value estimates using the sales comparison or income approaches, Respondent's reliance on the cost approach is understandable.

That being said, value estimates derived from the cost approach for older properties should be balanced against whatever recent market data is available to ensure the results are reasonable. In this case, there was some recent market data in the form of two (2) apartment sales involving complexes comprised of (24) and thirty (32) units. Both developments were constructed in 2019, and they sold nearly a year apart, the

smaller complex in November 2019 for \$2,342,000, or \$88.71 per square foot, and the larger complex in September 2020 for \$3,350,000, or \$81.03 per square foot. By contrast, the subject property, which has roughly quadruple the square footage of the larger 32-unit sale complex, is assessed at \$94.98 per square foot. Given the notably lesser square footages and newer ages of the sale properties, the Board would have expected a similar, or even lesser, valuation rate for the subject property, despite its additional amenities like a clubhouse and swimming pool. Though the Board would have preferred more sales and market data, such was not available, so we are left with only two (2) data points. These data points, however, were obtained directly from the market, and where Idaho is a market value state for purposes of property assessment, they were heavily weighed by the Board.

Pursuant to Idaho Code § 63-511, Appellant bears the burden of establishing subject's valuation is erroneous by a preponderance of the evidence. Given the record in this matter, the Board found the burden of proof satisfied, though did not find sufficient support for the value petitioned by Appellant. With primary emphasis on the sales information, the Board will reduce subject's assessed value to \$85 per square foot.

Based on the above, the decision of the Bannock County Board of Equalization is modified to reflect a reduction in subject's total valuation to \$13,940,000.

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 \$13,940,000, with \$1,892,765 attributable to the land and \$12,047,235 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 25th day of April, 2023.