BEFORE THE IDAHO BOARD OF TAX APPEALS

SUSAN AND DAVID WISHNEY FAMILY TRUST, Appellant, v. CANYON COUNTY, Respondent.	)	APPEAL NO. 23-A-1150 FINAL DECISION AND ORDER

COMMERCIAL PROPERTY APPEAL

This appeal is taken from a decision of the Canyon County Board of Equalization denying an appeal of the valuation for taxing purposes on property described by Parcel No. 045800000. The appeal concerns the 2023 tax year.

This matter came on for hearing December 6, 2023, in Caldwell, Idaho, before Board Member Leland Heinrich. David Wishney appeared at hearing for Appellant. Canyon County Appraisal Manager Michael Cowen 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 Canyon County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is $99,000, and the improvements' value is $1,109,200, totaling $1,208,200. Appellant contends the correct total value is $740,000.

The subject property is .14 acre commercial parcel located within the Urban Renewal District (URD) in the downtown core of Caldwell, Idaho. The property is improved with a two (2) story brick building constructed in 1903 with an effective age of 1983. The building totals 14,879 gross square feet, with 5,878 square feet of retail space on the ground floor, 5,665 square feet of office space on the upper level, and 3,336 square feet in the basement; however, the basement space has limited access and is currently suitable only for storage. The net leasable area of the building is roughly 10,280 square feet.

Appellant explained many of the old downtown commercial buildings have been updated in recent years with funds received from the URD program; however, Appellant has not received any such funds, so the subject building has not been updated. The interior finish on the second floor was described as dated, with wallpaper from the 1950s still on many walls. The second floor does not comply with the requirements of the Americans with Disabilities Act (ADA), and most of the electrical outlets are ungrounded, two-prong models. Appellant also noted the HVAC system has only three (3) zones, so the temperature is inconsistent between the multiple suites situated within each zone.

With respect to subject's retail space on the ground floor, Appellant stated no capital improvements have been made other than paint and tile from approximately ten (10) years ago. The storefront is comprised of the original plate glass windows, and only two (2) of the four (4) bathrooms on the ground floor are ADA compliant. It was also noted only street parking is available. Based on these various characteristics, Appellant regarded subject as a Class C commercial building.

In addition to being diverse in terms of business type, properties within the URD were also noted to be in various stages of rehabilitation and development. Appellant identified thirty (30) commercial properties used for retail and/or offices located within the

URD and two (2) situated just outside the district. The buildings varied widely in size, age, and condition. Appellant highlighted certain characteristics such as parking, fire sprinkler systems, and frontage on the popular downtown plaza. Overall, Appellant reported lease rates from $2.88 to $24.00 per square foot. Focusing on the Class C commercial buildings, Appellant calculated an average lease rate of $5.97 per square foot for retail space. Because there were only two (2) Class C office buildings in the data set, Appellant instead utilized the four (4) Class B office buildings and calculated an average rate of $11.73 per square foot. For subject, Appellant reported an overall lease rate $7.03 per square foot for the retail space on the street level and $10.28 per square foot for the office space on the second floor.

As subject is an income-producing property, Appellant advocated use of the income approach to estimate the market value. In this regard, Appellant developed an income model based on subject's actual 2022 income and expense data. Due to some atypical expenses incurred in 2021 and 2022 to replace a couple rooftop HVAC units, Appellant included the more typical expense rates from 2019 and 2020 and calculated a four (4) year average expense figure of approximately $38,000. Subtracting the expenses from the nearly $83,000 rental income yielded a net operating income of roughly $45,000. Capitalized at 6%, Appellant calculated a value of $739,967 for subject. Using a 6.5% capitalization rate, Appellant calculated a value of $683,046.

Respondent explained subject's assessed value was determined through a market-adjusted cost approach model, though did develop additional value estimates using the income and sales comparison approaches. For its income model, Respondent analyzed reported lease rates for various retail and office properties located in Caldwell.

Lease rates varied from $8.57 to $25.99 per square foot, with an average rate of $17.18 per square foot. Respondent concluded a lease rate of $18 per square foot for subject's main floor retail space and $15 per square foot for the upper-level office space and calculated an effective gross income of nearly $172,000. To this, Respondent applied a 10% vacancy rate, a 5% management expense, and a 2% expense rate to arrive at a net operating income of approximately $144,000. Respondent capitalized the net operating income at 6%, resulting in a value indication of $2,393,694 for subject. After deducting roughly $60,000 as the cost to cure subject's lack of fire suppression sprinklers, Respondent concluded a rounded value of $2,300,000.

Respondent's comparative sales analysis was based on three (3) downtown commercial sales. Sale No. 1 concerned a partially rehabilitated building with a gross building area of 17,722 square feet constructed in 1908. This property was leased at the time of its November 2022 purchase for $2,050,000, or $116 per square foot. Sale Nos. 2 and 3 were both vacant shells at the times of sale. Sale No. 2 was a commercial building from 1912 with a gross building area of 8,300 square feet which sold for $750,000, or $90 per square foot, in June 2022. Sale No. 3 was the October 2022 purchase of a building constructed in 1908 with a gross building area of 6,618 square feet for $750,000, or $113 per square foot.

Respondent compared each sale property to subject and made adjustments for differences in age, condition, quality, size, and fire sprinklers. Respondent also applied a 7% per month time adjustment to the respective sale prices. The time-adjustment factor was determined using five (5) resale properties. Three (3) of the resales involved properties which sold in 2021 and again in 2022, with price differentials of 250%, 154%, and -6%. The other two (2) resale transactions occurred in 2023, with price differentials of 294% and 41%. After all adjustments, Respondent calculated adjusted sale price rates of $89, $108, and $120 per square foot, respectively. Respondent utilized the median rate of $108 per square foot and calculated a rounded value of $1,600,000 for subject.

In reconciling the value indicators, primary emphasis was on the sales comparison approach, as the approach was regarded by Respondent as most capable of capturing the robust appreciation in the downtown commercial marketplace the last couple years. As such, Respondent argued the $1,600,000 value concluded in the sales comparison approach was the most reliable estimate of subject's current market value and petitioned the assessed value be increased accordingly.

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, 2023, 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 three (3) primary approaches for determining market value include 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).

Appellant disagreed with Respondent's use of a market-adjusted cost approach for determining subject's assessed value and argued the income approach was more appropriate. While the Board agrees the income approach is commonly used to value commercial property, it is not the exclusive valuation approach. As observed by the Idaho Supreme Court,

> The question is not what someone else, however eminent he may be in the field of appraisal work and knowledge of market values, may think is the proper method, but involves simply the determination as to whether the method used by the assessor was legitimate and fair, and was a reasonable method to use in arriving at the value of the property in question.

Abbot v. State Tax Comm'n, 88 Idaho 200, 206, 398 P.2d 221, 224 (1965).

Even if the income approach were used, the Board was unpersuaded Appellant's income model represented the best evidence of subject's current market value. To begin, the analysis relied solely on subject's actual income and expense data in contravention of Property Tax Administrative Rule 217, which in relevant part reads, "[t]he appraisal procedures, methods, and techniques using the income approach to determine the market value for assessment purposes of income producing properties *must use market rent*, not contract rent." IDAPA 35.01.03.217.03 (emphasis added).

The requirement to use market rent is particularly important where a particular property's contract rents are below market levels. Appellant did not share details of the leases in place at the subject property, other than the monthly lease rates for the four (4) retail spaces on the main floor and the twelve (12) office suites on the second floor. Size figures were not provided for any individual space in the building, and Appellant did not indicate the dates any of the in-place leases were executed, so it is unknown whether the lease rates are reflective of current market conditions or if the rates are several years old. On an overall basis, the lease rate for subject's ground floor retail space is $7.03 per square foot, and the rate for the upper-level office space is $10.28 per square foot. Both of these rates are less than the average lease rate data provided by Appellant for Class C retail space at $9.33 per square foot, and Class B office space at $12.93 per square foot for properties within the boundaries of the URD. Substituting these market lease rates into Appellant's income model yields a value indication of roughly $1,288,000 at a 6% capitalization rate and an approximate value of $1,189,000 using a 6.5% capitalization rate, which contrast sharply with Appellant's value estimates of roughly $740,000 and $683,000, respectively.

The Board was similarly unpersuaded Respondent's income approach analysis yielded the most reliable indication of subject's current market value. Though Respondent derived its lease rates from the marketplace, the comparability of the leased properties to subject was questionable. Several of the reported lease rates were for considerably newer stand-alone commercial properties located several miles from the subject property, and four (4) of the downtown lease rates were from a single Class A building with a restaurant on the ground floor. In other words, little consideration was given to subject's downtown location and inferior Class C building type compared to nearly all the leased properties utilized by Respondent. This naturally skewed the final value conclusion well above any of the values concluded in the parties' other valuation analyses.

Respondent's comparative sales model was generally better received by the Board, as all three (3) sale properties were located on the same downtown street as subject. Sale No. 1, with a sale price of $2,050,000, was closest in size to subject, but it was a Class B building that had been partially updated at the time of sale. According to the building permits Appellant found, roughly $615,000 has been spent updating the property over the last two (2) years. The other two (2) sales in Respondent's analysis were both Class C buildings which sold for $750,000 each, but both were vacant at the respective times of sale, which suggests some condition issues. As noted by both parties, the downtown area has experienced a flurry of sales and development activity in recent years, so the 100+ year old buildings are in various stages of upgrade, which makes direct comparisons difficult. Interestingly, after Respondent's adjustments, the adjusted price of Sale No. 1 was $89 per square foot, whereas the clearly inferior Sale Nos. 2 and 3 had adjusted prices of $108 and $120 per square foot. In all, it was difficult to correlate the adjusted price data to a reliable estimate of subject's market value.

In accordance with Idaho Code § 63-511, the burden is with Appellant to establish subject's valuation is erroneous by a preponderance of the evidence. With the evidence presented in this matter, the Board did not find the burden of proof satisfied. Given the concerns with aspects of the parties' respective analyses, the Board was ultimately disinclined to alter subject's valuation. The decision of the Canyon County Board of Equalization is affirmed.

FINAL ORDER

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

DATED this 28th day of March, 2024.