

BEFORE THE IDAHO BOARD OF TAX APPEALS

WBCMT 2007-C33,)	
)	
Appellant,)	APPEAL NOS. 23-A-1158,
)	23-A-1159, and 23-A-1160
v.)	
)	FINAL DECISION AND ORDER
BANNOCK COUNTY,)	
)	
Respondent.)	
_____)	

COMMERCIAL PROPERTY APPEALS

These appeals are taken from decisions of the Bannock County Board of Equalization modifying the valuations for taxing purposes on properties described by Parcel Nos. RPRPPSQ000501, RPRPPSQ000402, and RPRPPSQ000602. The appeals concern the 2023 tax year.

These matters came on for hearing November 1, 2023, in Pocatello, Idaho, before Board Member Doug Wallis. Attorney Ryan Gibbs appeared at hearing for Appellant. Bannock County Assessor Anita Hymas represented Respondent.

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

The issues on appeal concern the market values of three (3) commercial properties.

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

FINDINGS OF FACT

Parcel No. RPRPPSQ000501 (Appeal 23-A-1158)

The assessed land value is \$2,131,287, and the improvements' value is \$7,837,690, totaling \$9,968,977. Appellant contends the correct total value is \$7,100,000.

Parcel No. RPRPPSQ000402 (Appeal 23-A-1159)

The assessed land value is \$871,600, and the improvements' value is \$3,863,891, totaling \$4,735,491. Appellant contends the correct total value is \$3,350,000.

Parcel No. RPRPPSQ000602 (Appeal 23-A-1160)

The assessed land value is \$58,767. Appellant contends the correct value is \$50,000.

The subject properties are three (3) contiguous commercial parcels located in Pocatello, Idaho totaling 13.04 acres in size. The properties serve as a multi-tenant shopping center comprised of two (2) buildings constructed in 1985. There are a total of six (6) retail spaces with a combined leasable area of 139,064 square feet. For purposes of this decision, the subject parcels will be referred to as a single multi-tenant retail property.

Appellant sold the subject property in June 2023 for \$10,500,000 in an arm's-length transaction. It was noted the property had been brought up to full occupancy prior to the sale. Appellant explained the property was slated for auction on May 17, 2023; however, on May 15, 2023, an investment group from Georgia made an offer of \$10,500,000, which was accepted. In Appellant's view, the purchase price was the best evidence of subject's market value.

In addition to the purchase price, Appellant developed a pro forma income valuation model using subject's actual and estimated income and expense data. A gross income of roughly \$1,300,000 was calculated using a 5% vacancy factor. From this, operating expenses were removed, which expenses included a 4% management fee. The result was a net income figure of approximately \$905,000. The model utilized a loaded

capitalization rate rate of 8.293% (7% capitalization rate plus 1.293% tax levy), resulting in a value conclusion of \$10,584,130, which Appellant stressed closely approximated the sale price.

Respondent explained subject's original assessed value was \$15,487,396. Following a recommendation by the assessor's office to value the land as a single contiguous parcel instead of three (3) separate commercial lots, the Bannock County Board of Equalization reduced the combined valuation to \$14,763,234.

In support of the current valuation, Respondent likewise developed an income model based on subject's income and expense data. Respondent utilized the same income figures as Appellant, but no vacancy factor was applied, which yielded a higher gross income figure of approximately \$1,400,000. For operating expenses, Respondent used the same common area maintenance expense as Appellant, but the remaining expenses differed considerably. Respondent calculated total operating expenses of roughly \$280,000, whereas Appellant's model calculated expenses of nearly \$430,000. Respondent utilized an unloaded capitalization rate of 7.5%, as its model did not include property taxes as an expense. Respondent's analysis determined a value of \$14,576,987 for the subject property.

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). Commercial property is commonly valued using the income approach, as such property typically trades in the marketplace based on its potential to generate income.

Both parties developed income approach models based on subject’s income and expense data. However, despite using common data, the parties’ income models differed in several key areas. On the income side, the difference was the vacancy rate. Appellant utilized a 5% vacancy factor whereas Respondent’s analysis did not include any vacancy. The absence of any vacancy in Respondent’s model was curious to the Board given that Respondent agreed Appellant’s 5% rate was at market and the subject property did actually have vacancy as of January 1, 2023.

Another primary difference between the parties’ analyses was the operating expenses. Both parties used the same common area maintenance expense, but all other expense figures differed. It was unclear how or from what source Respondent’s other expense figures were derived, but Appellant’s expense items were sourced directly from

the ledger. Given that the parties' income models were reportedly based on subject's actual income and expenses, and Respondent offered no support for the different expense numbers in its analysis, the Board was not persuaded Respondent's expenses represented the more reliable figures.

Lastly, the parties differed in the capitalization rate applied to the respective net operating income figures. Appellant utilized a loaded capitalization rate of 8.293%, whereas Respondent utilized an unloaded capitalization rate of 7.5%. Again, it was unclear how Respondent derived its capitalization rate. The only information provided was a list of eleven (11) sales and active listings involving commercial properties only a fraction of subject's size, for which Respondent calculated capitalization rates varying from 4.59% to 9.74%. Other than total leasable area, no details concerning the sales and listings were provided, though some were noted to be single-tenant commercial properties. Appellant's capitalization rate, by contrast, was sourced from a commercial real estate firm using sales and market data involving neighborhood centers, which is more representative of subject's property type. On this issue, the Board preferred Appellant's capitalization rate, as it was derived from sales of larger commercial properties, whereas Respondent utilized sales and listings of commercial properties only 3,000 to 34,129 square feet in size. The subject property has roughly 140,000 square feet of leasable space, which is an entirely different class of commercial property than those in Respondent's data set.

In addition to the income analysis, Appellant also pointed to subject's purchase in June 2023 for \$10,500,000 as evidence of the property's current market value. The Board agrees the recent arm's-length purchase of a property is generally regarded as strong

evidence of its market value. However, in this case, the subject property was purchased in June 2023, approximately six (6) months after the controlling valuation date in this appeal of January 1, 2023. Determining market value as of January 1st necessarily requires analysis of sales and market data which is known or knowable as of such date. Therefore, sales which occur after the date of valuation are untimely for purposes of establishing market value as of such date. Accordingly, the Board placed little emphasis on subject's June 2023 purchase.

Idaho Code § 63-511 places the burden on Appellant to establish 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. Where both parties developed income models based on subject's actual income and expense data, Appellant's analysis was better received by the Board, as the inputs into the model were sourced directly from Appellant's financial records. Many of the inputs into Respondent's model, on the other hand, differed from the figures reflected in the financial records for unknown reasons. In this particular instance, the Board found Appellant's income analysis better supported and the more reliable estimate of subject's market value.

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

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Bannock County Board of Equalization concerning the subject parcels be, and the same hereby are, MODIFIED to reflect a total assessed value of \$10,584,130, allocated to each subject parcel as follows:

Parcel No. RPRPPSQ000501 (Appeal No. 23-A-1158): \$7,151,841

Parcel No. RPRPPSQ000402 (Appeal No. 23-A-1159): \$3,390,217

Parcel No. RPRPPSQ000602 (Appeal No. 23-A-1160): \$42,072

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 11th day of March, 2024.

IDAHO BOARD OF TAX APPEALS


LELAND G. HEINRICH, CHAIRMAN


KENNETH W. NUHN


DOUG M. WALLIS

NOTICE OF APPEAL PRIVILEGES

Enclosed is a Final Decision and Order of the Idaho State Board of Tax Appeals concerning three (3) appeals.

Motion for reconsideration of the hearing record or motion for rehearing the appeal (with good cause detailed) may be made by filing such motion with the Clerk of the Board within ten (10) days of mailing of the Final Decision and Order, with a copy of the motion being sent to all other parties to the proceeding before the Board.

According to Idaho Code § 63-3812, either party can appeal to the district court from this decision. Pursuant to Idaho Code § 63-3812, the appeal shall be taken and perfected in accordance with Rule 84 of the Idaho Rules of Civil Procedure.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of March, 2024, I caused to be served a true copy of the foregoing FINAL DECISION AND ORDER by the method indicated below and addressed to each of the following:

Ryan Gibbs
2355 Auburn Avenue
Cincinnati, OH 45219

- U.S. Mail, Postage Prepaid
- Facsimile
- Overnight Mail

Bannock County Assessor
130 N. 6th Avenue
Pocatello, ID 83201

- U.S. Mail, Postage Prepaid
- Facsimile
- Overnight Mail

Bannock County Prosecutor
624 E. Center Street, Room 204
Pocatello, ID 83201

- U.S. Mail, Postage Prepaid
- Facsimile
- Overnight Mail

Bannock County Auditor
624 E. Center Street, Room 211
Pocatello, ID 83201

- U.S. Mail, Postage Prepaid
- Facsimile
- Overnight Mail

Michelle Woodmansee