

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF) APPEAL NO. 13-A-1163
ROBERT BONUCCELLI from a decision of the)
Kootenai County Board of Equalization for tax) FINAL DECISION
year 2013.) AND ORDER

COMMERCIAL PROPERTY APPEAL

THIS MATTER came on for hearing October 29, 2013, in Coeur d'Alene, Idaho before Board Member Linda Pike. Board Members David Kinghorn and Leland Heinrich participated in this decision. Owner Robert Bonuccelli and Broker Donald Huddleston appeared at hearing for Appellant. Attorney David Ferguson, Chief Deputy Assessor Richard Houser and Appraisers Donna Hoppe and Rod Braun appeared for Respondent Kootenai County. This appeal is taken from a decision of the Kootenai County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. C1996006004A.

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

The decision of the Kootenai County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$253,913, and the improvements' valuation is \$471,507, totaling \$725,420. Appellant requests the land value be reduced to \$214,315, and the improvements' value be reduced to \$396,685, totaling \$611,000.

The subject property is 1.642 acres improved with a concrete block, multi-tenant warehouse built in 2005. The warehouse, located in Coeur d'Alene, Idaho, has 12,682 square feet, with developed office/showroom space facing the street.

Appellant purchased subject in a cash transaction in August of 2012 for \$611,000.

Proof of the contract price and closing date was provided. The seller was a bank which had acquired subject through a warranty deed in lieu of foreclosure, dated April 20, 2012. Appellant reported the bank had received three (3) offers on subject, and that his was the highest and best offer received. The closing took place within about two (2) weeks time. At closing, the property was about 50% rented. Appellant characterized the existing rents as 30% below market. The contracted leases ran for another three (3) to eight (8) years.

Appellant argued subject's recent sale price, being part of an arm's length transaction, is the definitive fact of market value. The sale price was noted to duly reflect subject's current and future encumbrance with below-market rents. The County agreed that subject's existing rents at the time of sale were below market. Appellant offered testimony that the fixed rents decreased subject's value, because future income is the driving value factor for this type of property.

Appellant also presented an income approach which used subject's contract rents, a 20% vacancy factor, and an 8.5% capitalization rate (no property tax component). The income approach resulted in a total value of about \$345,000. Under a full-occupancy scenario, the income model resulted in a value of \$558,850.

Respondent explained its consideration or value calculation connected with the three (3) common approaches to value. In arriving at a final estimate of subject's market value, most weight was given to the income approach which estimated a value of \$736,529. The County sought to value subject's "entire fee simple interest" at full market value. The income modeling relied on an estimate of market rent and used an overall

capitalization rate of 9.25%. The capitalization rate included a component for property taxes. The County's cost approach yielded a total value of \$781,773.

The County found subject's recent sale was not a valid indicator of market value where the seller was a bank and where it was believed the property exchanged hands in a quick sale. In its consideration of sales information, both nearby and more distant warehouse sales were analyzed. It was found that subject's recent sale price was outside the range of market value evidenced by sales of similar property.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property like subject to be assessed annually at market value on January 1 of the relevant tax year. The definition of market value is provided in Idaho Code § 63-201:

“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.

There are three (3) generally recognized appraisal approaches in estimating market value: the cost approach, the income approach, and the sales comparison approach. In

the income approach, market value is estimated by considering market rents. The IDAPA rule 35.01.03.217 also provides the touchstone definition of market value plus details other assessment standards.

RULES PERTAINING TO MARKET VALUE DUTY OF COUNTY
ASSESSORS (RULE 217).
Section 63-208 Idaho Code. (3-30-07)

. . .

a. The assessor shall value the full market value of the entire fee simple interest of property for taxation. Statutory exemptions shall be subtracted.

(7-1-97)

b. Personal property shall be valued at retail level. (7-1-93)

02. Appraisal Approaches. Three (3) approaches to value will be considered on all property. The three (3) approaches to market value are: (3-30-07)

a. The sales comparison approach; (3-30-01)

b. The cost approach; and (3-30-01)

c. The income approach. (3-30-01)

03. Appraisal Procedures. Market value for assessment purposes shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. *The 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.* (3-29-10)

(Emphasis added.)

Appellant argued the relatively recent price paid for subject is the best evidence of its market value. The Board agrees with Appellant and Respondent that this price was heavily influenced by the existence of below-market leases.

Pursuant to the rule above and the fact that it is the property and not an individual ownership interest that is being assessed, the estimate of market value presumes a fee simple interest. Within the income approach this means market rent, and not contract rent,

must be considered. Where subject's recent purchase price was heavily based on existing contract rents, and where those fixed rents were well below market price levels and would be for several years to come, it was found the subject sale did not offer good evidence of market value.

Respondent considered the three (3) approaches to value. Primary weight was given to the income approach to value, which relied on estimated market rents. Under the circumstances, the Board found it proper that the County gave no consideration or weight to subject's recent purchase price and the contract rents. An estimate of market value for an income producing property necessarily relies on an estimate of future market rent. On the whole, the County's consideration of subject's market value was reasonable, supported and fair.

Pursuant to Idaho Code § 63-511, in appeals to this Board the burden is on Appellant to prove error in subject's assessed valuation by a preponderance of the evidence. In this particular instance, the Board finds that burden was not satisfied.

For the reasons expressed above, the decision of the Kootenai County Board of Equalization will be affirmed.

FINAL ORDER

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

DATED this 27th day of January, 2014.