

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF CPR ) APPEAL NO. 13-A-1193  
INVESTMENTS, LLC from a decision of the Twin )  
Falls County Board of Equalization for tax year ) FINAL DECISION  
2013. ) AND ORDER

**COMMERCIAL PROPERTY APPEAL**

THIS MATTER came on for hearing November 7, 2013, in Twin Falls, Idaho before Board Member Leland Heinrich. Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision. Owner Jay Bride appeared at hearing for Appellant. Assessor Gerry Bowden, County Prosecutor Jennifer Bergin, and Appraisers John Knapple and Michael Brown appeared for Respondent Twin Falls County. This appeal is taken from a decision of the Twin Falls County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RPT44710010020A.

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

**The decision of the Twin Falls County Board of Equalization is modified.**

FINDINGS OF FACT

The assessed land value is \$606,431, and the improvements' valuation is \$1,193,790, totaling \$1,800,221. Appellant requests the land value be reduced to \$393,944, and the improvements' value be reduced to \$1,140,250, totaling \$1,534,194.

The subject property is a 1.239 acre commercial parcel situated in the Renaissance Subdivision #1 business park in Twin Falls, Idaho. The parcel is improved with a two-story commercial building constructed in 2004. The building includes 11,502 square feet on the main floor and 660 square feet on the second level. The development includes eight (8) buildings, most of which house health service businesses. The buildings are similar in design and square footage; the main difference being the size of the upper level.

Appellant purchased subject in June 2010 for \$2,100,000, which included \$200,000 in personal property. Appellant considered the price paid to be in excess of market value, but explained other business interests outweighed concerns regarding the price.

Prior to subject's purchase, Appellant operated a physical therapy business in another building in the business park. Having outgrown the space, the search began for a new location. When the opportunity to purchase subject presented itself, Appellant elected to make the purchase for several key reasons. First, the largest source of referrals to the physical therapy business is another company located in the business park. Remaining close to this key source of business was a priority. Another reason was an agreement within the business park that no other physical therapy practices would be allowed as long as Appellant's business continued to operate.

Appellant characterized subject's roughly 17% increase in assessed value as not reflective of current market value. Appellant contended subject was unique compared to the other properties in the business park and therefore, should not be assessed at the same rate. The most important difference was a provision in the park's Covenants, Conditions, and Restrictions (CC&Rs), which require that a health club be owned, operated, and maintained by the owner of the subject property. The health club is for the benefit of employees working in the business park. The owners of each building in the development pay a monthly fee for their tenants' use of the health club. The CC&Rs further specify that the monthly dues are to be \$750 per month beginning January 1, 2006, and can only increase 3% each subsequent year. Appellant reported current monthly dues are approximately \$900 per owner. The health club occupies 3,560 square feet, or approximately 30% of subject. Because subject's use is

restricted, as are the revenues from the health club, Appellant argued the property should not be valued the same as others in the development which were not similarly restricted.

Appellant also noted there were some lease agreements already in effect at the time of subject's purchase. The leases are scheduled to expire between 2017 and 2025. Appellant regarded the lease rates as below market, but explained it was bound by the lease terms set forth in those prior agreements. As such, Appellant is unable to increase rents until the lease agreements expire. Appellant argued the County did not adequately consider this factor when valuing subject.

The third major value detriment concerned specialized tenant improvements made to the subject building. Appellant's physical therapy business consumes 5,427 square feet. Prior to Appellant's purchase, the space was ordinary office space. After purchase, extensive renovations and specialized equipment were installed. Now that the space has been converted to a special use, Appellant contended subject's marketability has been diminished. Appellant remarked the market for prospective buyers would be restricted to those in need of physical therapy space. The other option would be to remove the improvements and return the area to regular office space. Appellant estimated such a renovation would cost several hundred thousand dollars, and would be a key factor in any future sale negotiations.

To demonstrate subject's rents were below market, Appellant provided lease rates for three (3) other buildings in the development. The lease rates varied between roughly \$20.50 and \$22.10 per square foot on a net basis. Subject's current net lease rates, on the other hand, are between \$14.47 and \$15.93. Though "rent" is not associated with the health club, Appellant estimated the space generated the equivalent of \$13.33 per square foot net lease rate.

In addition to lease rate information, Appellant provided its income statement for 2012. Included was income and expense information which was kept separate between the health club and the remainder of the building. Using this information, Appellant performed an income approach analysis, which concluded a total value for subject of \$1,534,194.

Respondent explained subject's development was re-evaluated for the current tax year as part of the county's regular reappraisal cycle. In reviewing the business park, Respondent noticed some inconsistency regarding the manner in which the common area improvements were assessed to the respective parcels. In an effort to reflect the actual use and shared benefit enjoyed by the parcels, Respondent first removed all common area improvements from each assessment. After calculating the total value of the common improvements, Respondent allocated an equal share to each parcel in the business park. The only differences in improvement values in the development were due to size and whether the building was equipped with a fire suppression sprinkler system. Otherwise, the buildings were assessed using the same cost tables.

Though Respondent relied on the cost approach to estimate subject's value, the sales comparison and income approaches were used to test the reasonableness of the cost approach conclusion. For the sales comparison approach, two (2) sales from subject's development were considered. Sale No. 1 sold for \$2,350,000 in February 2012 and Sale No. 2 closed in July 2012 for \$2,100,000. Respondent regarded Sale No. 1 as most comparable to subject, and concluded a total value for subject of \$2,350,000 using the sales comparison approach. Appellant regarded both sale prices as inflated because the buyer in Sale No. 1 was from out of state and did not understand the local real estate market, and the buyer in Sale No. 2 was

under a strict time deadline to complete a 1031 exchange. In Appellant's view, these sales were not reliable indicators of subject's current market value.

Respondent's income approach analysis used estimated gross income, operating expenses, and other relevant factors. After applying a 9.15% capitalization rate to the estimated net operating income, Respondent concluded a total value of \$1,942,726 for subject. Appellant argued the net operating income in Respondent's model was overstated, thus leading to a higher value.

### 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 all taxable property be assessed annually at market value on January 1 of the relevant tax year; January 1, 2013 in the current case. Idaho Code § 63-201 defines market value as,

“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.

“[T]here are three primary methods of determining market value: the cost approach . . . the income approach . . . and the [sales comparison] approach.” Merris v. Ada County, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Support for the parties' respective value positions came from application of one (1) or more of the above approaches. Respondent considered all

three (3) approaches, however, relied primarily on the cost approach. Appellant, on the other hand, relied on an income approach analysis because subject is an income-producing property.

In addition to providing an income approach analysis, Appellant outlined several factors which were argued to diminish subject's value. The first was the development's CC&Rs, which require the owner of subject to provide a health club for employees working in the business park. The CC&Rs further restrict the amount of dues which can be charged for the use of the health club. Appellant argued special consideration should be given for this factor when comparing subject to other properties in the park. The Board concurs.

Subject is uniquely burdened within the business park by the health club provision in the CC&Rs. Appellant is legally bound to provide the health club and is restricted in the fees which can be charged. The health club occupies 3,560 square feet, or roughly 30% of subject's total space, which significantly impacts the building's income potential. In fact, the health club operated at a nearly \$11,000 loss for 2012. This income restriction should be duly considered in determining subject's value.

Appellant also contended subject's value was negatively affected by leases which were in place at the time of purchase, as well as, specialized tenant renovations made after the purchase. Appellant noted subject's net lease rates were more than \$5 less per square foot on average than other buildings in the business park. Since Appellant is bound by the terms of the pre-existing lease contracts, it was reasoned subject's value should be reduced. On this point, the Board disagrees.

Appellant purchased subject with full knowledge of the leases and their terms. Appellant made a business decision to purchase despite the lower income potential. The goal of

assessment for property tax purposes is to find market value. This necessarily requires consideration of all available market information, not just the particular circumstances surrounding an individual property. To grant a reduction based on a prior decision which keeps subject's rental income below market, would be improper in the Board's view.

The Board was likewise not persuaded an adjustment is warranted for specialized improvements. Appellant contended the pool of potential buyers would be limited to physical therapy businesses or other organizations requiring gym space. In the alternative, Appellant offered that the area could be converted back to office space, but the associated costs would be high and would likely be reflected in a reduced sale price. While the Board understands Appellant's position, no evidence was offered to demonstrate what, if any, adjustment would be appropriate. Currently, the space is used in support of a continuing physical therapy business. As of January 1, 2013, there was no indication the special physical therapy improvements detrimentally affected subject's value.

While the Board found Respondent's valuation approach reasonable, there were some concerns with the sales comparison and income approaches. In the sales comparison approach, neither of the two (2) sales were directly compared with subject, nor were adjustments made to account for physical differences. Instead, Respondent chose the highest sale price and concluded it was most indicative of subject's value.

The Board also had some reservations concerning Respondent's income approach. Most importantly, it was not clear the source of the revenue and expense data which was used. The capitalization rate was derived from one (1) of the above-referenced sales, however Respondent did not indicate how the other variables were determined. In the end, the County's income

approach value conclusion was found to be thinly supported.

The Board appreciates the information provided by both parties. On its face, subject appears to be a normal office building similar to all the others in the development. Under the surface, however, there is a condition which affects subject specially; the health club provision found in the CC&Rs. No other building in the business park is similarly restricted. As such, subject should not be valued the same as the others.

Neither party focused on subject's land value, though Appellant did request a land value reduction. In appeals to this Board, the burden is on Appellant to prove error in subject's assessed valuation by a preponderance of the evidence. See Idaho Code § 63-511. As to subject's land value, this burden was not satisfied. It was not entirely clear how Respondent arrived at subject's land value, however, Appellant failed to provide any market value evidence which supported a lower value.

Given the above, the Board is satisfied some adjustment to subject's improvements is warranted. Accordingly, the decision of the Twin Falls County Board of Equalization is modified to reflect a decrease in subject's improvements to \$1,140,000, with no change in the \$606,431 land value.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Twin Falls County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in subject's total value to \$1,746,431, as detailed above.

IT IS FURTHER ORDERED that 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.

DATED this 18<sup>th</sup> day of February, 2014.