BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF COBB IRREVOCABLE TRUST from a decision of the Latah County Board of Equalization for tax year 2013.	))))	APPEAL NO. 13-A-1177 FINAL DECISION AND ORDER

COMMERCIAL PROPERTY APPEAL

THIS MATTER came on for hearing November 14, 2013, in Moscow, Idaho before Board Member Linda Pike. Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision. Attorney Gregory Dickison and Real Estate Broker Wayne Browning appeared at hearing for Appellant. Assessor Patrick Vaughn and Appraiser Jerry Coleman appeared for Respondent Latah County. This appeal is taken from a decision of the Latah County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RPM00000180045A.

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

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

FINDINGS OF FACT

The assessed land value is $291,000, and the improvements' valuation is $2,620,450, totaling $2,911,450. Appellant requests subject's total value be reduced to $1,400,000.

The subject property is a 1.28 acre commercial parcel situated adjacent to the University of Idaho in Moscow, Idaho. Subject is improved with a 25,712 square foot multi-tenant commercial building constructed in 2003. The building includes retail, fast food, and general office spaces. Most of the space is leased at the rate of $15 per square foot. At least one (1) of the larger suites is leased for $12 per square foot.

Appellant purchased subject in 2006 for $3,650,000. Included in this price was a purchase option related to another nearby parcel. The estimated value of the purchase option was not offered. Respondent reported an adjustment was considered as evidenced by subject's lower assessed value.

Appellant explained subject was originally designed to accommodate four (4) retail-type tenants with approximately 5,000 square feet available for each. However, due to higher demand for smaller commercial spaces, the larger suites were divided into smaller units. One (1) issue with the property now, is that the renovations did not include replacement of the original four (4) large HVAC units. Therefore, several tenants share a single thermostat. Reference was also made to high maintenance and utility costs associated with subject's large common area lobby. Appellant further characterized the Moscow economy as declining, particularly in comparison to other cities in the area. In Appellant's view, the cited conditions detrimentally affect subject's market value.

Offered in support of reducing subject's assessed value was information on five (5) improved commercial sales. The sales, which occurred between 2011 and 2013, involved property located in Moscow. Sale No. 1 concerned the old federal building constructed in 1973. The lot had 74,052 square feet and the single-tenant building contained 48,400 square feet. The property sold in July 2013 for $2,380,000, or at a rate of $49.17 per square foot. Respondent contested the comparability of the sale based on its older age, larger size, and the fact that it is a single-tenant building, instead of being multi-tenant like subject. Respondent also remarked extensive updates were needed at the time the property sold. The county estimated these costs at roughly $1,000,000.

Sale No. 2 concerned a 22,500 square foot commercial building situated on a 38,768 square foot lot. The building was constructed in 1948. The property sold in March 2013 for

$1,000,000. Appellant reported the buyer spent roughly $1,200,000 in renovations after purchase. Again, Respondent pointed to the 1948 construction date and opined the sale property was not comparable to subject.

Sale No. 3 transpired in July 2013 for $6,200,000, or $30 per square foot. The property had a 655,142 square foot lot improved with a 152,581 square foot multi-tenant commercial building. The property was further improved with four (4) commercial pad sites and parking for nearly 800 cars. The existing building was constructed in 1977, however, Appellant reported the building was well-maintained.

Appellant's Sale No. 4 was located in subject's immediate vicinity. The 125,452 square foot lot was improved with a 47,090 square foot commercial building, of which approximately 17,000 square feet is devoted to office space and the remaining 30,000 square feet to residential apartments. The property sold in June 2011 for $1,100,000, or $23.36 per square foot. Appellant acknowledged the older age of this sale property and some associated deferred maintenance issues.

The final sale offered by Appellant concerned a 15,395 square foot commercial building situated on a 111,078 square foot parcel. The building was constructed in 1970. Appellant reported extensive renovations were made to the property, though it was not clear if such work was completed before the sale or if it occurred sometime after purchase. It was also noted the transaction was a short sale. Appellant maintained the $560,000, or $36.30 per square foot, pricing reflected full market value.

Appellant also offered a brief income approach to value. Using subject's actual revenue and expense data, and a capitalization rate of 10%, subject's value was estimated at

$1,400,000. Respondent contested some of the input factors related to subject's net operating income (NOI); particularly the deduction of taxes as an operating expense. Respondent argued property taxes should be included in the capitalization rate and not as a line item expense.

Respondent developed value indicators from all three (3) appraisal methods. Two (2) income approach analyses were performed. The first used market vacancy and market management fees and rental rates. After applying an 8.25% capitalization rate, subject's total value was estimated at $2,175,527. The other income approach used subject's actual $12 per square foot lease rate together with market rates for the other input factors. This approach yielded a total value of $3,304,594. Ultimately, Respondent placed no weight on the income approaches, opting instead for a 50-50 split between the cost and sales comparison approaches discussed below.

Though specific details related to Respondent's cost approach were not shared, a summary worksheet sheet was offered. Respondent determined a value of $291,000 for subject's lot and $3,260,824 for the improvements.

Respondent's sales comparison approach considered three (3) sales. Sale No. 1 was Appellant's 2006 purchase of subject for $3,650,000, or $141.96 per square foot. Appellant questioned the relevance of a six (6) year old sale. Respondent countered that the general real estate market in Moscow held steady for the past five (5) years, despite the economic difficulties experienced in other communities around the state and the nation. In fact, Respondent remarked that Latah County had the lowest foreclosure rate in the Northwest region of the United States. As such, Respondent considered subject's prior sale relevant.

Sale No. 2 concerned a multi-tenant commercial property located in nearby Pullman, Washington. The 38,500 square foot building was situated on a 199,356 square foot lot. The building was constructed in 1954. The property sold in June of 2010 for $4,500,000, or $116.88 per square foot. Appellant challenged the appropriateness of using a sale located in another town. In Appellant's view, sales information should be restricted to the local marketplace.

Respondent's Sale No. 3 involved a commercial parcel located in Moscow. The 15,000 square foot lot was improved with a 10,000 square foot commercial building constructed in 1959. The property sold in October of 2012 for $637,500. Respondent did not consider the property a good comparable to subject, but rather offered the sale because it involved a local commercial property.

Respondent further referenced two (2) active listings of "strip-mall" type properties located in the area. The first was a 12,000 square foot commercial building constructed in 2005 and situated on a 1.81 acre parcel. The asking price was $1,800,000. The other listing concerned a 19,642 square foot building on a 1.42 acre lot. This property had an asking price of $2,850,000. Respondent noted the asking prices were similar to subject's 2006 purchase price when considered on a price per-square-foot basis. Appellant contended listings are not sales and should not be considered.

Finally, Respondent referred to three (3) local properties which resold within the past ten (10) years. In each instance, the subsequent sale price was at least 25% higher than the original purchase price from a couple years earlier. In Respondent's view, the higher resale prices were evidence of an appreciating commercial market.

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 at market value annually on January 1 of the relevant tax year. Market value is defined in Idaho Code § 63-201 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.

Appellant used the sales comparison approach and the income approach to arrive at subject's petitioned value. The sales comparison approach examined five (5) sales from the local area, three (3) of which transpired during 2013. The valuation question presented in this appeal is necessarily a retrospective one. Typically, this requires consideration of sales which occurred prior to and leading up to the effective date of valuation, January 1, 2013 in this case. The 2013 sales provided by Appellant closed in March and July. As such, the Board is unable to rely on the 2013 sales in this appraisal question.

Appellant's remaining two (2) sales occurred in 2011 and 2012. While the sales are timely, there are serious questions of comparability to subject. Most notably is that the Sale No. 4 is 25 years older than subject, and Sale No. 5 is 30 years older. Further, both the sale lots were approximately twice as large as subject's. There were also reports of major deferred maintenance and Sale No. 5 was a short sale. None of these issues were found to be well addressed in Appellant's analysis. Nor were the sale properties directly and individually compared to subject to evaluate differences. The lack of this appraisal analysis was not viewed favorably by the Board.

The Board was likewise concerned with Appellant's rather abbreviated income approach summary. The analysis simply subtracted all expenses from subject's revenue in 2012 and then applied a 10% capitalization rate. Considering subject's actual revenue and expense data is not necessarily problematic, however, the income approach typically looks forward and the analysis offered lacked a good explanation of all the considerations made. There was also no support offered for the key 10% capitalization rate, which Appellant merely acknowledged was at the high end of the expected range for a property like subject. Again, the lack of supporting details left the Board with more questions than answers.

The Board was similarly concerned with some of Respondent's analysis. There were questions of comparability regarding the sales offered. Sale No. 1 was subject's purchase from 2006. While the subject property was involved in the transaction, it is difficult to use such stale market information without a thorough analysis of an adjustment for time. Respondent made no adjustment for date of sale and offered no detailed market information in support of this decision.

Respondent's Sale No. 2 was located in nearby Pullman. While this sale most resembled subject in terms of being a multi-tenant commercial property, it was much older and larger than subject. Sale No. 3 was regarded as the least comparable to subject due to its comparatively small lot and improvement size, as well as, it being more than 50 years old. No adjustments were apparent for these notable differences, nor were any of the sale properties directly compared to subject for instance through a sales grid analysis. The Board was unable to determine how Respondent arrived at a value conclusion of $1,980,081, or $77 per square foot, using the sales comparison approach.

Respondent's cost approach was better understood and favorably received by the Board, but there were some concerns. The biggest issue was the lack of detail. Respondent's cost approach appeared simply as a single line item on its summary sheet. It appears a 40% local cost modifier was applied to the base replacement cost. It also appears no depreciation was applied, despite subject being roughly ten (10) years old. Again, little to no support or explanation was given, which left the Board with some uncertainty regarding this evidence.

We need not discuss Respondent's income approach models because neither factored into Respondent's final value conclusion.

In appeals to this Board, the burden rests with Appellant to prove error in subject's assessment by a preponderance of the evidence. See Idaho Code § 63-511. The Board did not find that burden satisfied in this instance. Appellant did present an appraisal of subject's value, but the analysis and support for the value opinion was thin and only loosely followed recognized appraisal methods and techniques. Similar concerns existed with some of Respondent's analysis, however, the burden is on Appellant to prove error. In this case, Appellant's value position was not found to be superior to that offered by Respondent.

Given the evidence presented in this matter, the Board is strained to find sound support for an adjustment to the BOE's valuation of subject. Accordingly, the decision of the Latah County Board of Equalization will be affirmed.

FINAL ORDER

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

AFFIRMED.

DATED this 28th day of March, 2014.