

BEFORE THE IDAHO BOARD OF TAX APPEALS

DDR NAMPA, LLC,	)	
	)	
Appellant,	)	APPEAL NO. 15-A-1102
	)	
v.	)	FINAL DECISION
	)	AND ORDER
CANYON COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**COMMERCIAL PROPERTY APPEAL**

This appeal is taken from a decision of the Canyon County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. 304980120. The appeal concerns the 2015 tax year.

This matter came on for hearing November 9, 2015 in Caldwell, Idaho before Board Member Leland Heinrich. Attorney Robert Burns appeared at hearing for Appellant. Chief Deputy Assessor Joseph Cox represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in 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 modified.**

FINDINGS OF FACT

The assessed land value is \$3,544,720, and the improvements' value is \$3,307,500, totaling \$6,852,220. Appellant contends the correct total value is \$4,720,000.

The subject property is an 11.649 acre commercial property improved with a 35,576 square foot stand-alone retail building constructed in 2009. The parcel is further improved with paved parking, which covers nearly the entire property. Subject is located in the Nampa Gateway Center shopping center in Nampa, Idaho.

Appellant offered a retrospective fee appraisal report with an effective valuation date of January 1, 2015. The appraisal examined each parcel in the shopping center separately. The appraisal detailed some of the history leading to the development of the shopping center. The property was acquired in 2005. Due to the difficult and rocky terrain, Appellant spent roughly two (2) years blasting the site before construction of the improvements could commence. During this same time, a competing shopping center located a few miles down the freeway called the Treasure Valley Marketplace, had begun to develop and attract major anchor tenants. The rapid development of Treasure Valley Marketplace, as well as, two (2) other retail centers in the area increased the competition in terms of attracting anchor and junior anchor tenants. As a result, Appellant was compelled to make significant concessions in order to attract the three (3) largest tenants in the shopping center; including paying roughly \$14 million to construct one (1) tenant's store. While Appellant was successful in securing a couple large anchor tenants, the shopping center has never performed to expectations, and even the anchor stores have underachieved by their standards. In all, the appraisal considered the shopping center troubled and over-assessed.

Focusing on the subject parcel, the appraisal valued subject as a junior anchor box store. With a land to building ratio of roughly 14.26, the appraisal concluded subject's lot was larger than needed to support the retail store. As a result, the appraisal broke subject into three (3) "parcels" and developed value estimates for each. The first was referred to as the Junior Anchor, which parcel encompassed approximately 9.25 acres and included the retail store and a lot of the parking. Parcel A and Parcel B, at 1.3 and 1.1 acres in size, respectively, were mostly undeveloped portions of the subject parcel. Though located on subject's eastern

perimeter, Parcels A and B are considered interior pad sites for the shopping center, with no frontage on the main thoroughfare. The appraisal determined Parcels A and B could be sold individually as out lots, or pad sites, and valued them accordingly.

In valuing the Junior Anchor portion of subject, the appraisal considered both the income and sales comparison approaches to value. Seven (7) sales of large stand-alone retail stores were compared to subject. The sales were located in Idaho, Oregon, and Washington and took place between July 2012 and January 2015. The appraisal made adjustments to the sale properties for differences compared to subject. Adjusted sale prices ranged from roughly \$107 to \$120 per square foot. The appraisal determined a value of \$105 per square foot, or \$3,735,000 for the Junior Anchor portion of subject.

The appraisal's income approach considered rent information from fifteen (15) local retail properties. Adjustments were made to the rent comparables for market conditions, location, visibility, and condition. Adjusted lease rates varied from \$7.50 to \$8.50 per square foot. The appraisal concluded a value of \$8 per square foot for the Junior Anchor. The capitalization rate was derived from seven (7) sales of junior anchor stores. The capitalization rate of the sales ranged from 6.09% to 7.65%. A 6.75% capitalization rate was used in the appraisal, which resulted in a total value of \$3,670,000 for the Junior Anchor portion of subject. After reconciling the two (2) value indications, the appraisal determined a value of \$3,685,000.

The appraisal valued Parcel A and Parcel B using the sales comparison approach. Ten (10) sales of both interior and exterior out lots were used in the analysis. The undeveloped lot sales were mostly located in Nampa. The primary adjustment made to the land sales was for visibility/exposure. Using a paired-sales analysis, the appraisal determined interior lots with

limited visibility from major roadways are discounted 40% in the marketplace. After applying this adjustment and others to the sales, the appraisal concluded a value of \$605,000 for Parcel A and \$430,000 for Parcel B. Adding these values to the value of Junior Box, yielded a total value of \$4,720,000 for subject.

Respondent likewise considered subject's acreage excessive for servicing a junior anchor tenant. As such, Respondent divided subject into five (5) separate "parcels". The first three (3) are the same as defined above in Appellant's appraisal. The remaining two (2) appraisal units are portions of subject which provide parking for Macy's and JC Penny's. Respondent allocated roughly 2.41 acres for the Macy's parking and 1.55 acres for JC Penny's. While similar, Respondent's Parcel A and Parcel B were somewhat larger than Appellant's fee appraisal, at 1.54 and 1.25 acres, respectively.

After reviewing Respondent's valuation analysis of the Junior Anchor portion of subject, Appellant agreed to accept the value of \$3,683,600 as determined by Respondent. The disputed values therefore relate only to Parcel A, Parcel B, and the respective parking areas for both Macy's and JC Penny's.

Respondent relied on the sales comparison approach to develop value estimates for Parcel A and Parcel B. Six (6) pad site sales were included in Respondent's analysis. Four (4) were located in a competing shopping center. These lots sold between \$14.78 and \$19.58 per square foot. The remaining two (2) sale lots were located in subject's shopping center. The first was a .63 acre parcel which sold for \$14.58 per square foot in October 2013. The second sale, involving a 1.5 acre lot which sold for \$15.30 per square foot, occurred in June 2014. This latter sale was located across the intersection from both Parcel A and Parcel B. Due to its similar size

and immediate proximity to Parcels A and B, Respondent regarded the sale as the best indicator of value. As such, Respondent valued Parcel A and Parcel B at \$15.30 per square foot, or \$999,700 and \$833,100, respectively.

To value the Macy's and JC Penny's parking areas, Respondent utilized a flat rate of \$10 per square foot. The result was a value of \$1,045,400 for Macy's parking area and \$697,000 for JC Penny's. Appellant questioned Respondent's use of \$10 per square foot considering a rate of \$9 per square foot was used in assessing another large parking parcel at the shopping center. Respondent contended the higher rate was warranted because the Macy's and JC Penny's parking areas enjoyed better visibility from the main arterial. Appellant countered no buyer would pay a premium for parking which is more visible from the main road.

#### 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 be assessed at market value annually on January 1; January 1, 2015 in this case. 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.

The income approach, sales comparison approach, and cost approach represent the three (3) primary methods of determining market value. *Merris v. Ada County*, 100 Idaho 59,

63, 593 P.2d 394, 398 (1979). In this case, the parties relied primarily on the sales comparison approach in developing their respective value positions.

The parties broke subject into several different “parcels”, or appraisal units, which this decision will look at individually. The first is the portion referred to as the Junior Anchor section. At hearing, Appellant agreed to the \$3,683,600 value determined by Respondent. As the value appears reasonable, the Board will adopt this value for the Junior Anchor portion of subject.

We turn now to the values of Parcel A and Parcel B. Appellant’s appraisal considered ten (10) sales for comparison with subject. Respondent looked to six (6) more recent sales in its analysis, however, focused on a mid-2014 sale involving a lot across the street from Parcels A and B. Normally, the Board is reluctant to rely heavily on just one (1) sale. In this case, however, the sale represents the best indicator of value because of its similar size and immediate proximity. Like Parcels A and B, this sale involved an interior lot with diminished visibility from the main thoroughfare. Appellant, on the other hand, applied as much as a 40% adjustment to its sales to account for visibility, which in the Board’s experience is a large adjustment. The analysis in Appellant’s appraisal was more detailed and thorough than Respondent’s analysis, however, the rather large adjustments made to the sales raised questions of comparability in the Board’s mind. Because Respondent relied primarily on a recent lot sale similar in size and located in subject’s immediate area, adjustments for location, visibility, and time were not needed. In all, the Board found Respondent’s value conclusions for Parcel A and Parcel B more persuasive and representative of current market value.

What remains are the parking areas for Macy’s and JC Penny’s. Appellant contended these areas were excess land from which the retail store derived no economic or other tangible

benefit. Due to Appellant's lease agreements with Macy's and JC Penny's, these parking areas are located in areas which cannot be changed or developed into anything else. In Appellant's view, this limited utility diminished the value of these parking areas. Respondent argued, on the other hand, the parking areas had value to a future purchaser of subject because the parking could be leased to Macy's and JC Penny's. Appellant countered a new owner of subject would have no legal leverage to extract lease payments from Macy's or JC Penny's. While Appellant is perhaps technically correct a new owner would not have legal leverage, the argument fails to recognize the reality both Macy's and JC Penny's require parking for their customers. Indeed, without parking, there would be no legal access to either Macy's or JC Penny's. Such a result is difficult for the Board to accept. It follows then that both stores would be interested in the respective parking areas if a new owner purchased subject. And the new owner would likely be incentivized to lease the parking areas because Macy's and JC Penny's are the anchor stores which drive traffic to the shopping center. In other words, a parking lease arrangement between Macy's and JC Penny's and the new owner is the probable result if subject were sold individually, which the Board notes is an unlikely scenario. As a result, the Board finds no error in assigning the values of the Macy's and JC Penny's parking to subject because such parking exists on the subject parcel.

While we agree with the general assessment treatment of subject, the Board was concerned about the \$10 per square foot rate used by Respondent. As Appellant noted, a \$9 per square foot rate was used to value other parking areas in the shopping center, including the other half of Macy's parking. Respondent argued the higher rate should be used because subject's parking is more visible from the main arterial roadway than some of the other parking

areas in the shopping center. The Board was unpersuaded by this argument. In the Board's experience, there is not a premium for parking which is more visible from the main road. Parking, regardless of where it is located on a parcel, is simply parking. There is nothing special about subject's parking areas to warrant a higher valuation rate. Without some support in the form of market data, the Board is not convinced the higher \$10 per square foot rate is justified.

Idaho Code § 63-511 places the burden on Appellant of proving error in subject's valuation by a preponderance of the evidence. Given the evidence presented here, the Board is satisfied the burden of proof is satisfied with respect to the value rate applied to the Macy's and JC Penny's parking areas. The other values determined by Respondent, however, were found to be reasonable and supported.

Based on the above, the decision of the Canyon County Board of Equalization is modified as follows:

Junior Anchor	\$3,683,600
Parcel A	\$ 999,700
Parcel B	\$ 833,100
Macy's parking area	\$ 940,896
<u>JC Penny's parking area</u>	<u>\$ 627,264</u>
TOTAL VALUE	\$7,084,560

#### 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, MODIFIED, as detailed above.

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 value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 29<sup>th</sup> day of April, 2016.