BEFORE THE IDAHO BOARD OF TAX APPEALS

KARCHER CAPITAL, LP, Appellant, v. CANYON COUNTY, Respondent.	APPEAL NO. 14-A-1118 FINAL DECISION AND ORDER

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. 121431030. The appeal concerns the 2014 tax year.

This matter came on for hearing January 29, 2015 in Boise, Idaho before Hearing Officer Cindy Pollock. Attorney Michael Band represented Appellant at hearing. Canyon County Prosecuting Attorney Brad Goodsell 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 $6,086,200, and the improvements' valuation is $1,163,800, totaling $7,250,000. Appellant contends the correct total assessed value is $5,560,000.

The subject property is an enclosed retail shopping mall containing 533,902 gross square feet. The total includes approximately 108,128 square feet of unfinished mezzanine space. The mall consists of three (3) anchor stores, four (4) smaller box suites, a movie theater, and several inline retail and kiosk suites. The indicated total gross leasing area is 368,633 square feet.

Subject was built in three (3) phases beginning in 1965. It was last renovated in 2008. The mall is situated on a 34.93 acre parcel located on Caldwell Boulevard in Nampa, Idaho.

Appellant provided an independent fee appraisal with an effective valuation date of January 1, 2014. Portions of the appraisal reported information on the retail property market, as well as regional and local mall trends. Subject is currently 73% occupied. A significant portion of the tenants are on a month-to-month lease with most of these paying below-market rents. Appellant's Appraiser suggested the low rents cause the physical occupancy to be overstated. Further the Appraiser characterized subject's overall quality and condition to be inferior and noted the property suffers from significant functional obsolescence.

The fee appraisal considered the sales comparison, income, and cost approaches in arriving at its conclusion of value. Ultimately, the cost approach was deemed unreliable because of subject's age and extensive functional obsolescence. Using the income approach, the Appraiser relied on a consideration of market rents and subject's income and expense data. An annual net income estimate of $820,047 was determined and a capitalization rate of 14% was used. The capitalization rate was derived from sales of comparable enclosed malls which showed capitalization rates between 12% and 15%. Some of the sales referenced dated back to 2007. Appellant's Appraiser determined older enclosed malls with higher vacancy required capitalization rates between 12% and 15% on in-place income. In the income approach, the Appraiser utilized a vacancy rate of 25%, fixed expenses of 57.1%, management fees of 3%, reserves at 2%, and a 1% miscellaneous expense. A value conclusion of $5,855,000 was determined by the approach.

Looking at the sales comparison approach, the fee appraisal pointed to eleven (11) enclosed mall sales, of which all but one (1) were located in other states. Each sale was discussed and details were provided regarding the differences between the sale properties and subject. Appellant's Appraiser suggested an enclosed mall sale in Pocatello, Idaho should be given more consideration. This property sold in December 2013 for $9,502,500 or $14.89 per square foot. The mall was older and contained 638,301 square feet of net leasable area. At time of sale the vacancy rate was 18%. The fee Appraiser regarded this property as similar to subject in terms of age and design. Using the sales comparison approach, the fee Appraiser reached a value conclusion of $5,530,000.

Respondent likewise considered the three (3) approaches to value in its analysis. The cost approach was also disregarded due to subject's age and condition. Respondent's appraisal therefore relied on the value conclusions from the income and sales comparison approaches.

In reviewing and reprocessing the fee appraiser's income approach, Respondent agreed with the net operating income (NOI) determination except for the 1% miscellaneous expense allowance. An NOI of $844,084 was determined after the 1% expense was reversed. Respondent then looked to the capitalization rate analysis in the fee appraisal. It was noted some of the sales used occurred more than three (3) years ago, and one (1) sale price was considered below market value. Respondent therefore removed these latter sales from its analysis. What remained were two (2) sales, Sale Nos. 5 and 10.

Sale No. 10 was explained to be bank-owned for approximately two (2) years before being put on the market. Respondent concluded although it was a bank sale, it represented the high end of the capitalization range. Due to the lack of applicable sales, Respondent considered three (3) additional sales to derive its capitalization rate. After analyzing the new sale set, talking with several professionals, and researching market publications, Respondent determined a 10% capitalization rate was appropriate for subject. Using the 10% capitalization rate, and modified NOI figure, an income approach conclusion of $8,420,000 was reached.

Respondent explained because subject is a multi-tenant income producing property the income approach would typically be relied on to determine value. The sales comparison approach was used to test the reasonableness of the value conclusion reached in the above income approach. Respondent considered six (6) of the fee appraisal sales along with four (4) additional enclosed mall sales. The prices per square foot varied widely, from $13 to $82 per square foot. After analyzing the sales, Respondent determined a price per square foot of $21 for subject's 368,633 square feet of leasable area to arrive at a sales comparison approach value conclusion of $7,741,000.

Respondent determined subject's market value as of January 1, 2014 was best represented by the income approach indicator at $8,420,000.

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, 2014 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.

Market value is estimated according to recognized appraisal methods and techniques. There are three (3) approaches to value, the sales comparison approach, the cost approach, and the income approach. See *Merris v. Ada County*, 100 Idaho 59, 63 (1979). Both parties generally explained their consideration of each approach to value. Each party ultimately disregarded the cost approach in reaching their respective conclusions. The main approach reflected in each parties' value case was the income approach. The Board found ample support for this, but not at the full exclusion of the available sales comparison information.

Appellant's income approach relied on a consideration of market rents and subject's actual anticipated income and expense data pursuant to in place leases. A 14% capitalization rate was selected based on a consideration of older commercial property sales. Subject was older and suffering from considerable obsolescence. The fee appraisal concluded a value for subject of $5,855,000 relying mainly on the income approach.

The fee appraisal used market rents and subject's actual income and expense data. Respondent also relied on this, however differed slightly on the expenses. A more significant departure for Respondent was in the determination to use a 10% overall capitalization rate.

In this case, we have two (2) appraisal experts arriving at differing value conclusions, basically using the same approach. The parties sharply disagreed on the capitalization rate and yet both concluded their rates came from local experience and professional expertise. In the final analysis, the Board found both parties' income approaches provided good evidence of market value and we afforded significant weight to each.

Additionally the fee appraisal considered eleven (11) enclosed mall sales in its sales comparison approach. The sales transpired between 2009 and 2014 and the market price rates varied widely. The fee appraisal's conclusion for subject using the sales comparison approach was $5,530,000. The sale argued to be most similar to subject was the Pocatello, Idaho sale which sold in December 2013 for $9,502,500, or $15 per square foot. The Board found the extra weight given to the Pocatello, Idaho sale was well supported and should figure in the final analysis.

Respondent considered six (6) of the above mentioned eleven (11) sales and added another four (4) to its sales comparison analysis. The value concluded by the approach was $7,741,000. Respondent noted the sales indicated between $13 and $82 per square foot. Subject's assessed value equates to $21 per square foot. All but two (2) of the sales used by Respondent had lower sale prices per square foot than subject's indicated value rate. The Board found the evidence in record supports that subject suffers from significant obsolescence and configuration difficulties, and therefore it likely would not sell in the upper end of the price rate range. This was evidenced in part by the fact subject is not attracting anchor tenants or otherwise able to secure many long-term contracts.

In conclusion, the Board found weighing the income approaches the most, and factoring in the sales comparison evidence, which was deemed appropriate in this instance, demonstrated subject's assessed value was overstated by the County Board of Equalization.

Idaho Code § 63-511 places the burden on an Appellant to prove error in a subject's assessment by a preponderance of the evidence. In this instance, the Board is satisfied that burden has been satisfied. Given the evidence offered, the Board will reduce subject's total assessed value to $6,500,000. The decision of the Canyon County Board of Equalization will be modified accordingly.

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 to reflect a decrease to $6,500,000.

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 9th day of April, 2015.