BEFORE THE IDAHO BOARD OF TAX APPEALS

MMP OFFICE NO 1 LLC, Appellant, v. ADA COUNTY, Respondent.	)	APPEAL NO. 15-A-1167 FINAL DECISION AND ORDER

COMMERCIAL PROPERTY APPEAL

This appeal is taken from a decision of the Ada County Board of Equalization modifying the protest of valuation for taxing purposes of property described by Parcel No. R3037460110. The appeal concerns the 2015 tax year.

This matter came on for hearing November 17, 2015 in Boise, Idaho before Board Member Leland Heinrich. Attorney Terri Pickens Manweiler represented Appellant. Chief Deputy Assessor Tim Tallman 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 Ada County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is $2,214,000, and the improvements' value is $17,668,000, totaling $19,882,000. Appellant contends the correct total value is $15,685,000.

The subject property is a 4.98 acre parcel improved with an approximate 134,207 square foot “Class A” multi-tenant office building constructed in 2009. The building consists of both finished and unfinished office space. Subject is located in the Gardner Ahlquist Gateway

Subdivision No. 01 in Meridian, Idaho.

Appellant provided an independent fee appraisal with an effective valuation date of January 1, 2015. The early portions of the appraisal report involved a neighborhood analysis, as well as a Boise market analysis. The following approaches to value were developed using an assumption of stabilized occupancy.

The fee appraiser explained subject is a six (6) story professional office building. A determination was made the building contained 133,631 square feet of gross area, and 127,051 square feet of rentable area. The first floor was described as an unfinished shell. The appraisal assumed the main level would be built-out for professional office use with good quality finishes. The tenant improvement allowance to build out the space was estimated at $45 per square foot. Further noted was another approximately 17,651 square feet of unfinished shell space.

Respondent explained one of the biggest issues between the parties regarded the actual leasable area. The rentable area from Appellant's income and expense documents indicated 133,100 square feet of rentable area, therefore Respondent used this figure. Appellant's fee appraisal relied on 127,051 square feet of rentable area.

The fee appraisal pointed to six (6) commercial building rental rates. The market rental rates varied between roughly $14.50 and $22.00 per square foot. After adjustments were made for rent concessions, location, tenant size, age, and condition, the comparables suggested market rent between $18.15 and $21.20, or an average of $19.81 per square foot. Considering all the factors Appellant concluded $18.50 per square foot for floors two (2) and three (3) of subject, $19.50 per square foot for floors four (4), five (5), and six (6) based on finishes, and $21 per square foot for the main level.

In its rent analysis, Respondent contended the $45 per square foot for tenant improvements was low, as it did not take into full consideration the balance of work needed to finish the shell portions of subject.

Appellant's income approach analysis used estimated gross income, operating expenses, and other market factors. After applying a 7.75% capitalization rate, loaded with a 1.33% effective tax rate, to net operating income, Appellant concluded a total value of $17,405,000 for subject. Respondent argued the net operating income in Appellant's model was incorrect thus leading to a lower value.

The appraisal provided information on five (5) local office building sales which sold between 2012 and January of 2015. Sale prices were between $1,096,000 and $44,825,000. After making appraisal adjustments to the sale properties for market conditions, location, property and tenant size, building quality and design, age and condition, parking ratio, and land and site improvements ratio, a value of $17,150,000, or $135 per square foot was concluded for subject. For comparison, the comparable sale prices ranged from $89 to $174 per square foot. After the adjustments the comparables bracketed market value for subject in the range of $123 to $137 per square foot, with an average of $133 per square foot. The sales comparison approach conclusion was $17,150,000.

The appraisal next provided a "Market Value: As Is" conclusion for subject. Subject was 15% vacant on the main level. The appraisal opined subject would reach stabilized occupancy within two (2) years from January 1, 2015. Lease commissions were estimated at 6% of market during a typical 5-year lease term. Market rent of $21 per square foot was applied in deducting lost rent during the lease-up on the main level. Tenant improvement allowances were $45 per square foot. This was applied to subject's unfinished 24,737 square feet. Lastly, an entrepreneurial incentive of 10% of the total lease-up costs was deducted to account for the incentive of construction of tenant improvements. After all the adjustments, the resulting value was $15,685,000.

The cost approach was considered, however not relied upon as the fee appraiser deemed it less reliable indicator of market value and not typically relied upon by participants in the commercial market.

Respondent reported subject was last reappraised for the 2012 tax year at $19,882,000. In 2015, the assessment was increased to $20,272,700 by the assessor. Subsequently the BOE lowered it back to $19,882,000. On Appeal, Respondent considered the cost, income and sales comparison approaches to value.

Respondent's sales comparison approach considered four (4) comparable sales. The sale prices were between $4,200,000 and $18,093,849. The sales were adjusted for differences from subject. Adjustments were made for property rights conveyed, location, property and tenant size, quality and age. After adjustments, the indicated value range for subject was between $195 and $241 per square foot. Respondent also provided information on the sale of a shell-only multi-tenant office building. This property was situated in Meridian, contained 21,069 square feet of office space, and sold in March 2012 for $1,830,000. Appellant contended the sales were not noticeably comparable to subject.

In its income approach, Respondent considered information on four (4) lease comparables. The four (4) properties were all "Class A" medical type buildings. The properties were all located in subject's immediate vicinity and owned by Appellant. A capitalization rate of

7.5% was used. The income approach derived a value of $24,266,571 for subject. Appellant suggested Respondent used a downtown capitalization rate and actual contract rents versus market rents in its analysis. Appellant also argued Respondent used medical office rental rates and not general purpose office buildings like subject, and therefore, Respondent's analysis over estimated market value by approximately $10,000,000. Lastly, Appellant suggested Respondent used overstated rents based on a pure net basis. Respondent contended in this instance the market and contract rates were synonymous.

Respondent explained the cost approach was based on the original cost of the improvements plus subsequent tenant improvements. The costs were provided by Appellant and depreciated using the Marshall and Swift Valuation Service to arrive at a rounded improvement value of $18,722,800, plus the land value of $2,604,700, for a total cost value of $21,327,500. In reconciling the three (3) value indicators, Respondent determined a total value of $24,200,000 for subject.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support 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.

Market value is estimated according to recognized appraisal methods and techniques. The three (3) primary methods of determining market value are 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). Both parties considered all three (3) approaches, however the final value conclusions were vastly different.

Appellant provided an independent fee appraisal report along with testimony from the appraiser. A major difference between the parties was the actual rentable area. We found Appellant's information accurate and reliable, and agree with a rentable area measurement of 127,051 square feet. There was no evidence to refute Appellant's size calculation.

The parties agreed on many aspects of the income approach, however disagreed on market rents and capitalization rates. Respondent calculated a value of $24,178,000 whereas Appellant's appraisal calculated a value of $17,405,000. Appellant focused on a 7.75% capitalization rate, with an additional 1.33% for the effective tax rate. Respondent utilized 7% and 7.5% capitalization rates and then averaged the value indications. Appellant contested Respondent's capitalization rate and market rent figures. The fee appraiser testified the capitalization rates used by Respondent were "downtown rates" and not related to subject's specific area. Secondly, Appellant disagreed with the market rent data taken from medical buildings, not office buildings. In Appellant's opinion this overstated subject's value. We agree comparing subject to medical buildings could have overstated the rents. While subject may be situated in close proximity to medical buildings and the hospital, it is not a medical building.

In the sales comparison approach, Appellant questioned the comparability of Respondent's sales. Appellant contended the sales were not comparable to subject in terms of design and size. Appellant noted the shell property sale which contained 21,069 square feet and sold for $87 per square foot would be in line with subject after adding an additional $50 per square foot for tenant improvements. The Board notes both parties equally provided sales of smaller commercial buildings to compare with subject. In fact, all the sales in record were notably smaller than subject with the exception of one (1) sale provided by Appellant, which sale was much larger than subject. The availability of good comparable sales was evidently limited.

Appellant disregarded the cost approach, finding it a less reliable indicator of market value in this case. Respondent considered the cost approach by taking reported costs and depreciating them using the Marshall and Swift Valuation Service to arrive at a rounded cost value of $18,722,800. After adding the land value, a total value of $21,327,500 was concluded.

In accordance with Idaho Code § 63-511, the burden is with the Appellant to establish Respondent's valuation is erroneous by a preponderance of the evidence. After weighing the different value evidence we find the assessed value was overstated, though not to the extent petitioned by Appellant. The best evidence in record was found to be Appellant's thorough income analysis. However, the analysis was found to be deficient in its consideration of tenant improvement's. We found an adjustment needed to be made in order to adequately consider the tenant improvement's. The Board finds subject's total assessed value should be reduced to $16,965,000. As such, the decision of the Ada County Board of Equalization is modified to reduce subject's total value to $16,965,000.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a total value of $16,965,000.

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 29th day of March, 2016.