

BEFORE THE IDAHO BOARD OF TAX APPEALS

REX MUMFORD,)	
)	
Appellant,)	APPEAL NO. 14-A-1142
)	
v.)	FINAL DECISION
)	AND ORDER
MINIDOKA COUNTY,)	
)	
Respondent.)	
_____)	

COMMERCIAL PROPERTY APPEAL

This appeal is taken from a decision of the Minidoka County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RPB320000007A. The appeal concerns the 2014 tax year.

This matter came on for hearing November 6, 2014 in Rupert, Idaho before Board Member David Kinghorn. Appellant Rex Mumford was self-represented. Assessor Max Vaughn 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 Minidoka County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$284,029, and the improvements' valuation is \$124,838, totaling \$408,867. Appellant agrees with the improvements' valuation, however, contends the correct land value is \$185,000, resulting in a total value of \$309,838.

The subject property is a .678 acre commercial parcel improved with a 2,302 square foot restaurant constructed in 1980. The property is located on Overland Avenue in the

North Burley, Idaho commercial district. Subject is used by a franchise business associated with a national restaurant chain.

Appellant provided subject's assessment history since 2000 and highlighted the current assessed land value which increased roughly 33% over the prior year. In Appellant's view, there was not enough market data to support a land assessment rate of \$9.61 per square foot.

Appellant noted a large drainage ditch running along the rear of subject. Subject's property boundary extends to the midpoint of the ditch. Appellant described this portion of subject as unuseable. It was explained nothing could be done with the drainage ditch in terms of filling it in because only half of the ditch sits within subject's property boundaries. In prior years, subject's land assessment was reduced 25% on account of the drainage ditch. Citing a lack of market-related support, Respondent removed the adjustment for the current assessment. Respondent also removed an additional 10% downward access adjustment stemming from a nearby interstate overpass construction project because the construction had been completed.

Appellant described a generally slow commercial real estate market with a limited number of sales. Appellant, however, did provide information concerning two (2) groups of commercial sales. The first group included three (3) improved sales. The first involved a retail property in downtown Burley which sold in May 2014 for \$250,000. The next sale concerned an older commercial property with parking for as many as twenty (20) vehicles. After more than 1,200 days on the market, the property sold in January 2012 for \$115,000.

The final sale property was improved with an 8,850 square foot retail building and parking accommodations for up to fifty (50) vehicles. The property sold in January 2012 for \$177,500.

Appellant's second group of sales were vacant commercial lots which sold between 2006 and 2013. The lots ranged in size from 1.79 to 23 acres. Sale prices were between \$37,500 and \$350,000, or from \$0.32 to \$2.66 per square foot. Based on the sales information, Appellant argued subject's land value of \$9.61 per square foot was excessive.

Appellant also offered value opinions from two (2) realtors. The first was from a realty firm specializing in restaurant franchise operations like subject. The realtor indicated subject's lot was less desirable because its size was somewhat small for a restaurant franchise business. Concern was also expressed for the roughly 25-year age of subject's building. The realtor estimated a likely sale price of \$200,000. The second realtor was associated with a local firm, and characterized the Burley commercial real estate market as mostly stagnant during the last several years. It was also noted, despite being located near the interstate, subject did not enjoy high visibility to passing motorists and access to the property was somewhat difficult depending on the direction from which customers approach. The realtor estimated a probable listing price of \$295,000.

Finally, Appellant provided information regarding the commercial sales presented by the Assessor's Office to the county board of equalization. Sale Nos. 1, 2 and 3 were unimproved commercial lots between 2.5 and 30 acres in size. The sales occurred in 2011 and 2012, with sale prices ranging from \$35,000 to \$240,000, or between \$0.17 and \$0.84

per square foot. Sale No. 4 concerned a 4.676 acre parcel improved with a 40,443 square foot commercial building. The property sold in May 2009 for \$1,250,000, or \$6.13 per square foot on an overall basis. Appellant noted if subject's land value rate of \$9.61 per square foot were applied to this last sale, the price would exceed \$4,000,000. Respondent explained none of these sales were offered as direct comparisons to subject, but simply represented some of the recent commercial activity in the area.

To demonstrate subject's land was assessed consistently with other commercial sites, Respondent provided a list of assessed values for properties in the area. Lot sizes were between .19 and 1.07 acres. Assessed land values ranged from \$7.80 to \$10.81 per square foot. In Respondent's view, subject's land value rate of \$9.61 per square foot fit nicely within the range of other neighborhood assessments.

Respondent also presented information related to five (5) commercial sales. Details concerning the sale improvements was not shared, however lot sizes were between .53 and 2.18 acres. Four (4) of the sales occurred between 2008 and 2013. Sale prices were between \$245,000 and \$629,200, or from \$6.59 to \$18.82 per square foot on an overall basis. Sale No. 5, involving a .72 acre parcel, closed in 2014 for \$462,000, or an overall rate of \$14.63 per square foot. Appellant challenged the comparability of Sale Nos. 1 and 3 because they were in superior locations. The location of Sale No. 1 was described as prime because it sits immediately off the interstate and enjoys high visibility and easy access. Sale No. 3 was noted to be a pad site situated on the larger Walmart property, which was regarded by Appellant as a highly desirable commercial location. Appellant also

characterized some of the purchasers involved in Respondent's sales as specially motivated, willing to pay above-market rates due to their business situations.

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. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Commercial properties are amenable to any of the above three (3) valuation approaches, with the income and sales comparison approaches commonly used to develop value opinions. The parties' respective value estimates, especially for subject's land, resulted from a sales comparison analysis.

A sales comparison approach generally involves looking to recent sales of nearby comparable property. As described by Appellant, and evidenced by the sales in record, there was not an abundance of commercial sales during the last couple years. This necessitated the parties extending their search parameters to include sales extending back to 2006. Though more recent market information is preferable, the circumstances here warrant consideration of the older sales.

In total, Appellant provided twelve (12) commercial sales and Respondent offered five (5). Each party, however, included a sale from 2014. A key element in any appraisal is the effective date of valuation. A retrospective value estimate is derived using information which is known or knowable as of the valuation date. As indicated above, the assessment date in this appeal is January 1, 2014. Therefore, the Board's review will be restricted to market information from prior to January 1.

Adding to the valuation challenge is the wide variance in indicated land price rates, which ranged from \$0.17 all the way to \$18.82 per square foot. Interestingly, Respondent's sales were grouped at the high end of the indicated price range, while Appellant's sales represented the lower end. In reviewing the price-per-foot data, the Board discovered an area of concern. Respondent reported sale prices in terms of price per square foot by dividing the total sale price by lot size. Values attributable to the commercial improvements were evidently not removed from the sale prices, which inflated the reported price rates of the underlying land. Unfortunately, Respondent failed to provide details concerning the improvements associated with the sales, so the Board was unable to make adjustments

to measure land-only price rates.

The Board recognizes subject is an improved property and therefore any value conclusion must include consideration of the total property, as improved. This was made more difficult however where details regarding the sale improvements were absent in the record. Further, neither party attempted a direct comparison between subject and any of the sale properties.

Another issue concerns the drainage ditch along the rear side of the subject property. The photographs depict a ditch substantial in depth and width. Appellant estimated the ditch encompasses approximately 3,375 square feet of subject's lot. In prior years Respondent adjusted subject's land value downward 25% on account of the ditch. The adjustment was removed for the current assessment because Respondent stated there was insufficient market evidence to support continuation of the adjustment. While Respondent's contention the ditch does not appear to negatively influence value rates may be correct, it does not necessarily mean the ditch portion of subject's lot should be assessed at the same rate as the unaffected portions. Good support for Respondent's position on the ditch area was not found in the record.

The Board found the area encompassed by the drainage ditch should be discounted where it is unuseable to the owner as it presently exists. Subject's property line extends to the midpoint of the ditch, meaning Appellant is unable to cover the ditch or otherwise improve the area for the benefit of larger parcel. This is not to say the ditch negatively impacts the valuation rate, but rather serves to effectively reduce the size of the site to

which the rate is applied.

In appeals to this Board, Appellant shoulders the burden to establish subject's valuation is erroneous by a preponderance of the evidence. Idaho Code § 63-511. Given the evidence presented, the Board finds the burden of proof satisfied. Despite some concerns with the sales information, the Board found Respondent's sales adequately supported subject's land value rate of \$9.61 per square foot. This rate, however, should not apply to the unuseable ditch portion. Removing the 3,375 square feet encompassed by the ditch, results in a land value of \$251,377.

Based on the above, the decision of the Minidoka County Board of Equalization is modified to reduce subject's land value to \$251,377, with no change to the improvements' valuation, for a total assessed value of \$376,215.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Minidoka County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED as indicated 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 5th day of March, 2015.