BEFORE THE IDAHO BOARD OF TAX APPEALS

KANTISHNA, LLC, Appellant, v. ELMORE COUNTY, Respondent.	)))))))))))	APPEAL NO. 16-A-1147 FINAL DECISION AND ORDER

COMMERCIAL PROPERTY APPEAL

This appeal is taken from a decision of the Elmore County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RPA3S06E251655A. The appeal concerns the 2016 tax year.

This matter came on for hearing in Mountain Home, Idaho before Board Member Lee Heinrich. Owner Thomas Barry appeared at hearing for Appellant. Attorney L.W. Grant 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 Elmore County Board of Equalization is modified.

FINDINGS OF FACT

The subject's assessed value is $427,411. Appellant contends the correct value is $265,000.

The subject property is a 6,896 square foot commercial building situated on a .726 acre tract located in Mountain Home, Idaho. The main commercial structure, along with the 1,200 square foot detached storage building, were constructed in 2007. The property enjoys 205 front feet on American Legion Boulevard, a primary commercial thoroughfare leading into downtown.

Appellant purchased the subject property in April 2016 for $265,000. Appellant reported the property was listed on the open market for a period of roughly fourteen (14) months at declining asking prices. The final asking price prior to Appellant's purchase was $359,000. Respondent noted subject's purchase occurred after the January 1, 2016 date of assessment and contended it thus could not be considered in determining subject's current assessed value.

Respondent explained subject's valuation resulted from consideration of all three (3) approaches to value. Respondent's cost approach, developed using the Marshall & Swift valuation service, valued subject's building as a Class D Office Building. Respondent concluded a cost approach value of $553,328 for the commercial building and the storage unit. Subject's land value was derived from Respondent's commercial land value schedule, which assigned a value rate of $263 per front foot to commercial sites in subject's neighborhood.

Respondent's income approach was developed using inputs from the marketplace, not merely subject's specific income and expense information. Respondent utilized a vacancy rate of 6% and an operating expense rate of 24%. A loaded[1] capitalization rate of 9.68% was applied to the roughly $41,000 net operating income, resulting in total value of $433,058, with $379,143 attributable to the improvements, and $53,915 to the land.

Respondent also performed a sales comparison analysis which considered information related to four (4) sales, one (1) of which was subject's purchase in April 2016 for $265,000. Sale No. 3 was also a 2016 sale. This latter property, located roughly .6 miles from subject on the same commercial boulevard, was a 1.93 acre parcel improved with a 7,164 square foot office

[1] The overall capitalization rate used in the direct capitalization model included a component for the effective property tax rate, thus it was referred to as a loaded capitalization rate.

building and a 4,200 square foot detached utility building. The property sold in May 2016 for $530,000. Sale No. 1 involved a 2-story office building constructed in 1979. The property, which included 1.076 acres improved with a 15,488 square foot office building, sold in March 2015 for $355,000. Sale No. 4 closed in December 2014 for $560,000. This .733 acres, with 114 front feet on American Legion Boulevard, was improved with a 9,180 square foot office/retail building constructed in 2006. From the sales Respondent concluded a market approach value of $305,960 for subject.

Respondent reconciled the value indications from each above approach to arrive at a final total property value conclusion of $427,411. Respondent weighted the cost approach at 15%, the sales comparison approach at 25%, and the income approach at 60%. Appellant argued the cost approach should be ignored because subject's building is more than ten (10) years old and the cost approach is better suited to estimate the value of new construction. Respondent maintained it was required to use all three (3) approaches, so contended the cost approach information should be factored into the analysis.

Respondent also provided some variations of the analyses described above. One (1) such variation was to the sales comparison approach. Rather than including two (2) sales from 2016, Respondent focused on sales which occurred prior to the current January 1 assessment date. The new list included the 2014 and 2015 sales from the local market referenced earlier, as well as, one (1) from Payette and one (1) from Jerome. The Payette sale concerned a 2,144 square foot office building constructed in 1995. The property sold in April 2015 for $156,250. The Jerome sale involved a 7,153 square foot office building which sold in December 2014 for $300,000. This alternative sales comparison analysis yielded a value conclusion of $376,176 for subject. Respondent equally weighted this value conclusion with the above income approach value to arrive at a second reconciled value of $444,966.

In similar fashion, Respondent re-worked its income approach. In this new analysis, Respondent relied on subject's actual income, vacancy, and expenses. A lower 7.4% unloaded capitalization rate was applied, resulting in a total value of $566,432. This value was equally weighted with the value conclusion reached in the sales comparison approach to conclude a subject value of $427,632.

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, 2016 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).

Appellant's value evidence centered squarely on subject's purchase in April 2016 for $265,000. Appellant pointed to the series of asking price reductions during subject's listing history as good evidence subject's purchase price was the best indicator of market value. While we agree a recent, open market, arm's-length purchase of the very property being valued is generally considered good evidence of its market value, we do not find the same here. As noted above, the controlling date of valuation in this appeal is January 1, 2016. This retrospective valuation generally requires consideration of market data which existed prior to the valuation date. This is certainly true when it comes to the selection of recent comparable sales. Subject's purchase occurred approximately four (4) months after the date of valuation and thus is untimely for purposes of developing a value opinion as of January 1. That is not to say the listing information existing on January 1 could not be considered, and the Board did give some consideration to this evidence in determining the correct valuation of subject.

Respondent's information and analysis was generally well-received by the Board. The Board was concerned, however, with Respondent's insistence all three (3) valuation approaches must be used in determining assessed values. Such is simply not the case. The State Tax Commission is tasked with developing rules prescribing and directing the manner in which market value is determined for assessment purposes. Idaho Code § 63-208(1). And "[t]he rules promulgated by the state tax commission shall require each assessor to find market value for assessment purposes of all [non-exempt] property . . . according to recognized appraisal methods and techniques as set forth by the state tax commission. Id.

The State Tax Commission's rule regarding appraisal approaches for determining market value for assessment purposes provides in pertinent part, "[all] three (3) approaches to value will be *considered* on all property. . ." IDAPA 35.01.03.217.02 (emphasis added). The rule does not require each approach actually be used or be given significant weight in the final analysis, just that each approach is considered. The rule acknowledges some properties are more amenable to valuation by one method over another and that at times sufficient information for developing a particular approach may not exist. For example, the income approach is not typically used to value single-family residential property. Respondent's position, however, would seem to require an income approach be developed for a non-income producing property, which in the Board's experience does not reflect recognized appraisal practice.

In this case, Respondent used value estimates from all three (3) approaches to conclude a weighted reconciled value for subject. We appreciate the thoroughness of Respondent's analysis, but we do not agree all three (3) approaches should be used here. With a total value conclusion of $607,243, the cost approach yielded, by far, the highest value indication in the record. None of Respondent's commercial sales approached the $600,000 price level, nor did the value conclusion reached under the sales comparison approach. The income approaches likewise concluded a notably lower value than the cost approach. Of the various value indications, Respondent's cost approach conclusion appears to be an outlier as well as the least reliable indication of market value. As such, we found the cost approach here should be excluded from the final analysis.

Idaho Code § 63-511 places the burden on Appellant to establish subject's valuation is erroneous by a preponderance of the evidence. We find the burden of proof satisfied in this instance, though we did not find sufficient support to reduce subject's value to that petitioned by Appellant. Instead, giving equal weight to both Respondent's income and sales comparison approaches, we find subject's improvement value should be reduced to $315,594, with no change to the $53,915 land value, resulting in a total value of $369,509. This value is noted to be closer to the recent listing prices for subject when the property was being marketed prior to January 1. The decision of the Elmore County Board of Equalization is modified accordingly.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Elmore County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in subject's total value to $369,509, 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 20th day of March, 2017.