

BEFORE THE IDAHO BOARD OF TAX APPEALS

GREGORY INVESTMENTS,	)	
	)	
Appellant,	)	APPEAL NO. 17-A-1036
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BONNER COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**COMMERCIAL PROPERTY APPEAL**

This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RPR00000238872A. The appeal concerns the 2017 tax year.

This matter came on for hearing September 27, 2017 in Sandpoint, Idaho before Hearing Officer Cindy Pollock. Roger Gregory appeared at hearing for Appellant. Acting Chief Deputy Assessor Bonnie Berscheid represented Respondent.

Board Members David Kinghorn, Leland Heinrich and Kenneth Nuhn join in issuing this decision.

**The issue on appeal concerns the market value of an improved commercial property.**

**The decision of the Bonner County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$110,699, and the improvements' value is \$604,579, totaling \$715,278. Appellant contends the correct land value is \$100,000, and the improvements' value is \$500,000, totaling \$600,000.

The subject property is a 1.215 acre commercial parcel situated in the Timberline Center shopping center which is located in the City of Priest River, Idaho. The property is improved with a 19,372 square foot retail building currently operating as a hardware store. The property enjoys

roughly 80 front feet on Highway 2. Though constructed in 1976, the building has an effective age of 1986 as a result of regular maintenance and general upkeep. In addition to Appellant's hardware business, the Timberline Center includes several other businesses including a flooring store, a liquor store, a beauty salon, and a national bank branch. Respondent characterized the shopping center as a highly desired retail location in Priest River.

Appellant questioned the roughly \$179,000 increase in subject's assessed value for 2017. It was contended the local market did not support such an increase. Appellant outlined several factors argued to diminish subject's value including work needing to be done to repair the flooring and to update the bathrooms. Appellant also noted subject's flat roof design required more annual maintenance than a typical pitched roof to prevent water leaks. It was further pointed out subject's eight (8) roof-mounted air conditioners require extensive maintenance and were generally in need of being replaced. In Appellant's view, Respondent did not adequately consider these factors in determining subject's assessed value.

In addition to the above, Appellant argued Priest River's rural location detrimentally affected subject's market value. An email from an ACE Hardware district manager suggested lease rates in rural northern Idaho ranged from \$5 to \$7 per square foot, whereas lease rates in more populous areas, such as nearby Spokane, were in the range of \$9 to \$11 per square foot. Appellant reported subject's actual lease rate is less than \$4 per square foot. Respondent highlighted the fact Appellant owns the building and the hardware business so is therefore able to offer a below-market lease rate. Appellant countered the subject building, at nearly 20,000 square feet, is over-sized for its current use so realizing a higher lease rate from a third-party would be highly difficult or impossible in Appellant's view.

Appellant next offered an income approach analysis utilizing the same formula used by Respondent. Appellant used subject's actual rental income of \$75,575 and actual expenses of \$21,864, which latter amount included \$8,044 for property taxes. After applying a 2% vacancy rate, Appellant calculated net income of \$52,189. The net income was capitalized at a rate of 8%, resulting in a \$652,350 value conclusion.

Respondent explained the cause of subject's increase for the current assessment year was the removal of a downward 25% adjustment. This adjustment was applied to all commercial properties in Priest River the past few years to account for the overall local economic climate. Respondent stated an increase in local commercial sales activity during 2016 indicated the economic adjustment was no longer appropriate, so it was removed across the board.

In valuing subject, Respondent reported all three (3) approaches to value were considered. The income approach was regarded as the most reliable indicator of value. Though there were five (5) commercial sales in Priest River during 2016, none of the sale properties were considered comparable to subject. It was explained the sales would require large and subjective adjustments for comparison to subject. As such, Respondent did not develop a value opinion using the sales comparison approach. Respondent likewise did not rely on the cost approach, due primarily to the age of subject's improvements and the difficulty of accurately estimating depreciation.

Because of the concerns with the other approaches, and the fact subject is an income-producing property, Respondent relied on the income approach. In this regard Respondent offered three (3) separate income approach models. The first used historical data to determine an annual potential gross income of \$116,232. A net operating income figure of \$78,457 was

calculated after applying a 10% rate for vacancy and collection loss, and a 25% operating expense rate. A overall capitalization rate of 8% was used resulting in a total value of \$980,708.

The second model used the same vacancy and capitalization rates as the first analysis, however, used a more conservative potential gross income figure of \$92,986, and a higher 30% expense rate. This analysis concluded a value of \$732,262. The third analysis relied on income and expense data previously provided by Appellant. A 2% vacancy rate and a 25% operating expense allowance were applied to the \$76,713 potential gross income, which when capitalized at 8% yielded a value conclusion of \$704,802. Appellant commented subject's actual expense rate is nearly 29% and argued this higher expense rate should be used.

#### 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, 2017 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 sales comparison approach, the cost approach, and the income approach represent the three (3) generally recognized methods for determining market value. *Merris v. Ada County*, 100

Idaho 59, 63, 593 P.2d 394, 398 (1979). The income approach is commonly used to estimate the market value of commercial property.

Both parties offered information relevant to the income approach. Appellant's income approach relied on subject's actual income and expense data. While the Board understands Appellant's use of these figures, reliance solely on the performance of an individual property fails to consider the broader commercial market. Estimating market value should where possible depend heavily on information from the marketplace, not just data from an individual property. A broader market consideration helps reduce the risk of a particular property's atypical performance. This risk is illustrated in this case, where subject's actual lease rate is \$3.90 per square foot despite evidence offered by Appellant indicating market rates for commercial retail space in rural northern Idaho range from \$5 to \$7 per square foot. Also, Appellant's expense calculation included roughly \$8,000 for property taxes, however, property taxes are already included as a component in Respondent's overall capitalization rate. It would therefore be inappropriate, double-counting, to also include property taxes as an expense. Subject's income and expense information should certainly be considered, but so too must other available market data be considered.

Respondent relied more heavily on information obtained from the market with three (3) separate income approach models offered. In reviewing the three (3) different analyses, the Board found the third model, which included a blend of market rates and subject's actual rates, was the most reasonable and better supported estimate of subject's current market value. This model concluded a market value of nearly \$705,000, which closely approximates subject's current assessed value of roughly \$715,000.

Idaho Code § 63-511 places the burden on Appellant to demonstrate subject's valuation is erroneous by a preponderance of the evidence. In this particular instance, we did not find the burden of proof satisfied. Appellant's analysis was found to be too narrowly focused on subject's actual income and expense information, with a lack consideration given to other available market data. On the other hand, Respondent's value estimate and market rent determination, was derived from a consideration of market data and subject's actual income and expense data, which in the Board's view represented the best evidence of market value in this case.

Based on the above, the decision of the Bonner County Board of Equalization is affirmed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 13<sup>th</sup> day of November, 2017.