BEFORE THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

REGENCY PARK, Appellant,	)	Dockets Nos. 38041-38042
v.	)	Re: Property Tax Appeal
GEORGE BRITTON, Spokane County Assessor, Respondent.	)	FINAL DECISION

VALUATION IN CONTROVERSY FOR THE 1989 ASSESSMENT YEAR

DOCKET NO. PARCEL NO.	BOARD OF EQUALIZATION VALUATION	BOARD OF TAX APPEALS VALUATION
38041 17633-1122	Land: $ 65,700 Impr: $ 267,600 Total: $ 333,300	Land: $ 65,700 Impr: $ 267,600 Total: $ 333,300
38042 17633-1159	Land: $ 32,700 Impr: $ 194,000 Total: $ 226,700	Land: $ 32,700 Impr: $ 194,000 Total: $ 226,700
TOTAL VALUE	$ 560,000	$ 560,000

This matter came before the Board of Tax Appeals (Board) for an informal hearing on May 15, 1990, to review the Spokane County Assessor's valuation of Regency Park for the 1989 assessment year. John J. Armstrong, Marvin F. Poer & Co., appeared for Appellant. Richard J. Weber and Melvin Foltz, Appraisers, appeared for Respondent, Spokane County Assessor, George Britton (Assessor).

ISSUE

Is there clear, cogent, and convincing evidence that the Assessor overvalued the property for the January 1, 1989, assessment date?

FACTS

The subject property, commonly known as Regency Park, is a 33-unit apartment complex built in 1974 which consists of 27 one-bedroom units and 6 two-bedroom units. The property is located on two parcels of land, Parcels Nos. 17633-1122 and 17633-1159.

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The Assessor valued the complex at $690,000. The Spokane County Board of Equalization lowered the value to $560,000 (or $17,000 per unit) based on the Assessor's recommendation.

At the time of the Spokane County Board of Equalization hearing, the property was managed by James S. Black Management Company. The management has subsequently been turned over to Kiemle & Hagood.

The property was in receivership on September 1, 1989, when Vernice Zanco (Owner) purchased it for $300,000 or about $9,100 per unit.

The subject property has had some difficulty retaining on-site managers, and the Assessor agrees that the complex was in disrepair at the time of sale.

The Owner presented two income approaches to value. The first approach was based on the actual 1988 income and expenses and budgeted income and expenses. The actual income reflects about a 30 percent vacancy rate. The income and expense ratios were 50 percent and 51 percent. This information resulted in a value of $430,000. The second approach was based on actual 1989 income and expenses. The 1989 actual income reflects a 30 percent vacancy rate and 64 percent expenses. During 1989 the property was managed by the two firms mentioned above. This information resulted in a value of $226,700.

The Owner also presented one listing of a comparable property, the Fox Glen Apartments. Fox Glen is a 50-unit complex with 32 one-bedroom and 18 two-bedroom units. This property has a net operating income of about $92,820 and an asking price of $1,020,000. It supports a capitalization rate of 11.6 percent. The Owner submitted this information to support her capitalization rate of 11.5 percent. The information on Fox Glen Apartments also supports an income expense ratio of 43 percent.

The Assessor relied on the gross rent multiplier (GRM) method to value the property. He presented three sales of comparable apartment complexes which range in size from 22 to 36 units. These sales support GRMs from 5.3 to 6.8. These sales also support a per unit range of $18,600 to $22,700. The Assessor used the lowest GRM, 5.3, against a gross income of $104,800 to establish the value of the subject property at $560,000 ($17,000 per unit). The Assessor presented information which identifies the Fox Glen property as a Small Business Administration repossession. Fox Glen was purchased by the owner of the subject property, Vernice Zanco, in September 1989 for $800,000 or $16,000 per unit.

In support of his market approach, the Assessor also provided an income approach to value. His projected gross income was based on a mixture of old and new rents obtained from the on-site manager. A comparison of the parties' income approaches follows.

	Assessor	Owner
Gross Income	102,240[1]	
Vacancy 5%	5,110	
Effective Gross Income	97,130	
Actual Gross Income		72,154
Expenses 35%	34,000	
64%		46,082
Net Operating Income	63,130	26,072
Capitalization Rate	10.5%	11.5%
Total Value	601,240	226,700

CONTENTIONS

The new management company believes the property is still over-assessed and should be valued at the recent purchase price of the property, $300,000, because the property had substantial deferred maintenance which affected the purchase price. The Owner also argues that the property has turnover problems because the layout and design of the units causes above-average heating expenses and because of deferred maintenance. The Owner contends that the income level reduced by vacancy creates more expenses for the Owner.

The Assessor responds that the current manager has been at the complex seven weeks and the manager expects to turn the property around. The Assessor does not agree that the tenant utility expenses are necessarily higher than comparable apartments. The Assessor believes he has considered the deferred maintenance on this property by using the lowest GRM offered by comparable sales which resulted in a per unit value which is $1,600 per unit lower than the lowest comparable sale. The Assessor contends that an income approach should reflect typical vacancy rates from the market and not actual rates which may reflect management.

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[1] The Assessor estimated the actual rents to be $250 and $280 per unit.

ANALYSIS AND CONCLUSIONS

The Owner and the Assessor were each given full opportunity to place their arguments before the Board. The Board, having considered all the testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following analysis and conclusions:

Under RCW 84.40.0301(1), the valuation placed on property by an assessor is presumed to be correct, and can only be overcome upon presentation by the taxpayer of clear, cogent, and convincing evidence that the assessor's valuation of the subject property is erroneous.

Under the provisions of RCW 84.40.030 and WAC 458-12-301, the true and fair value of property shall be based upon sales of the subject property being appraised or sales of comparable properties made within the past five years. In addition, consideration may be given to cost, cost less depreciation, and the capitalization of income that would be derived from the prudent use of the property.

The Owner stressed the use of the income approach using actual income, vacancy, and expenses. This Board accepts the income approach as one acceptable appraisal technique. However, in any appraisal employing the income approach to value, this Board looks to typical market conditions in analyzing the income stream, expense statement, and capitalization rate. To do otherwise would distort the appraisal of property into an appraisal of management. There is no doubt that this property has suffered management problems and vacancy problems which may be the result of deferred maintenance or management. The Owner has made no judgment on the proper amount of deferred maintenance for this property, and we have no evidence to assist us in determining how much of the actual vacancy problem can be attributed to deferred maintenance. The Owner has not presented clear, cogent, and convincing evidence that deferred maintenance justifies an additional vacancy rate for this complex.

The Owner, in her income approach before the Spokane County Board of Equalization, arrived at a $430,000 value which is far above the actual purchase price. This income approach was based on actual income and typical expenses. Under the principle of anticipation, past sales of the property and past income are of importance only when they are an indication of what may be expected in the future.[2]

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[2] International Association of Assessing Officers, Property Assessment Valuation 25 (1977).

Undoubtedly, the Owner expects to improve her income position with new management.

We believe other methods such as cost and comparable sales should be considered in order to determine value.

The law (RCW 84.40.030) places the most weight on the comparable sales approach for property of this type. It is our opinion that sales must be analyzed in connection with other market sales. We consider the sale of the subject preferred evidence of value only when it is commensurate with current market conditions. In this case, the sale of the subject property is not commensurate with other market sales presented, including the Owner's purchase of another distressed property, Fox Glen.

In addition to the sale of the subject, there were four comparable sales. With the exception of the sale of the repossessed Fox Glen complex, these sales support a GRM of at least 5.3 and per unit values at the $18,000 to $22,000 range. This value range supports the Assessor's per unit value of $17,000.

DECISION

The Owner has failed to meet the burden of proof in this case and the value set by the Spokane County Board of Equalization (upon the Assessor's recommendation) is sustained.

The Spokane County Assessor and Treasurer are hereby directed that the assessment and tax rolls of Spokane County are to accord with and give full effect to the provisions of this decision.

DATED this 30th day of July, 1990.

BOARD OF TAX APPEALS

RA Virant

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Matthew J. Coyle

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Lucille Carlson

LUCILLE CARLSON, Member