

**STATE OF SOUTH DAKOTA
OFFICE OF HEARING EXAMINERS**

WALMART REAL ESTATE

**DECISION
EQ 17-47**

v.

**LINCOLN COUNTY
SOUTH DAKOTA**

An administrative hearing was held in this matter on July 12, 2017. Petitioner, Walmart, was represented by Robert Hill. Walmart had witnesses, Aaron Smith and Mike Marous. Lincoln County (County) was represented by Mike Nadolski. Lincoln County had a witness, Kyle Sexe. Based on the evidence, the arguments of the parties, and the law, the Hearing Examiner enters the following Findings of Fact, Conclusions of Law, and Order.

ISSUE

Whether the subject property was properly classified and assessed?

FINDINGS OF FACT

1. The property which is the subject of this appeal is located in Lincoln County and is identified as follows:

Legal Description: Lot 1 Block 1 Springdale Development Addition 1
Parcel number: 281.97.01.001
Address: 7821 Minnesota Avenue South, Sioux Falls, South Dakota

2. The subject property is 189,169 square foot retail store that was built in 2015. It sits on 18.87 acres of zoned commercial land.
3. In valuing the property in question, the director of equalization considered the cost, market (sales comparison) and income approaches. The market approach and cost approach were utilized as data.¹
4. The cost approach is based on the cost of rebuilding the improvements minus any depreciation. The calculation process uses the Vanguard computer software.²

¹ The property was not open for a year so the income approach was not used.

² ARSD 64:04:01:17. The Residential Cost Handbook, Marshall and Swift Publication Company or the Vanguard Real Property Appraisal Manual, as incorporated in § 64:03:01:02.01, is the standard real estate appraisal guide for the appraisal of residential structures and mobile home property by the

4. The County estimated the value at \$16,913,570 using the cost approach. The County felt that the cost approach was the best approximation of value.
5. The subject property was also valued using the market approach. The market approach compares the subject property with other similar properties that have been recently sold. However, it is difficult to find similar matches because 189,169 square foot buildings are not sold very often.
6. Using the market approach, the County estimated the value to be in a range from \$6,012,437 to \$17,554,021.

Comp 1: \$57.09 per square foot
Comp 2: \$94.80 per square foot
Comp 3: \$32.47 per square foot
7. Using the market approach, Walmart estimated the value to be \$7,700,000 (\$40 to \$42 per square foot). Walmart used sales data from other Walmart (or Sams Club) stores that have recently sold outside the Sioux Falls area³.
8. The County Board lowered the cost approach value to \$14,405,600. This was the final estimate of value for assessment purposes.
9. Pursuant to statute the property value was set as of November 1, 2016.
10. Any additional findings included in the Reasoning section of this decision are incorporated herein by this reference. To the extent any of the foregoing are improperly designated and are instead conclusions of law, they are hereby redesignated and incorporated herein as conclusions of law.

REASONING

All real property in South Dakota is subject to taxation, unless expressly excepted. SDCL 10-4-1. Taxes on real property are based on value. SDCL 10-6-33 provides that property be assessed at its true and full value. SDCL 10-6-33 provides in part as follows:

All property shall be assessed at its true and full value in money. The true and full value is the taxable value of such property upon which the levy shall be made and applied and the taxes computed. In determining the true and full value of property the director of equalization may not adopt a

replacement cost method to determine full and true value for tax purposes pursuant to SDCL chapters 10-6 and 10-9.

³ Other locations included Rapid City, South Dakota, Yankton, South Dakota, Bismarck, North Dakota, Blaine, Minnesota, and Cottage Grove, Minnesota.

lower or different standard of value because it is to serve as a basis of taxation. ... The true and full value shall be determined by appropriate consideration of the cost approach, the market approach and the income approach to appraisal. The director of equalization shall consider and document all elements of such approaches that are applicable prior to a determination of true and full value.

SDCL 10-3-16 states that “[t]he director of equalization shall assess for taxation all property subject to taxation, except property which the secretary of revenue has been directed to assess, which is situated in the county or municipality for which the director is appointed, including all property located within the corporate limits of each municipality. No legal presumption of correctness attaches to the director’s assessed valuation of property. Each county in this state is an assessment district.”

The taxpayer bears the burden in challenging the assessed value of property. Williams v. Stanley County Board of Equalization, 69 S.D. 118, 7 NW2d 148 (1942). “Simply asserting that the valuation was in excess of the true and full value does not make it so.” Richter Enterprises v. Sully County, 1997 S.D. 61, paragraph 14, 563 N.W.2d 841, 845.

A significant problem in this case is the size of the building. 189,000 square foot buildings are not routinely built, bought, or sold in South Dakota. This makes it very difficult to establish a value based on a local market of buyers and sellers. As a result, the County relied on the cost approach to estimate value. On the other hand, Walmart used the sales or market approach with property outside the Sioux Falls area.

Both methods have some flaws. The cost approach does not consider what a buyer is actually willing to pay for a building. Cost and depreciation are not the only aspects of value. A potential buyer is going to consider what extra money they have to spend to make the building fit their needs.⁴ The sales/market approach also has faults. Due to the lack of local sales, Walmart had to look at other sales of Walmart buildings outside the immediate area. Factors such as population, economic growth, competition, etc, may be very different in the two areas.

This is a very unique property because of the size of the building. The market/sales approach gives a better estimate of value because it shows what people are paying for similar large buildings. The County’s comparable properties average \$58.25 per square foot $((\$47.49 + 94.80 + 32.47) \div 3)$. Walmart estimated the value at \$40 to \$42 per square foot (\$41 will be used).

The County uses local sales in their comparables. Walmart used sales of other Walmart stores outside the area. Both give an idea of what a Walmart could sell for. The average price per square foot of both comparables is \$49.63 per square foot. Rounded up to \$50, this results in an estimated value of \$9,458,450.

⁴ For example, a buyer may have to spend money to change the layout, plumbing, electricity etc.

The most persuasive evidence of the value of property was the market or sales method. Due to the uniqueness of the property sales involved with big box stores, non-Walmart local properties and Walmart non-local properties were considered. The final assessment of the Lincoln County Board of Equalization should be reduced. The assessed value of the property is \$9,458,450.

CONCLUSIONS OF LAW

1. The Office of Hearing Examiners has jurisdiction over the parties and the subject matter of this appeal pursuant to the provisions of SDCL 1-26D, 10-10-11 and 10-11-42.
2. "In determining "true and full value" of property SDCL 10-6-33 requires that each of the three approaches be considered, not necessarily utilized." *Amert v. Lake Co Board of Equalization*, 1998 S.D. 66, ¶25, 580 N.W. 2d 616, 618.
3. The market approach was the best evidence of the value of the subject property.
4. Any additional conclusions included in the Reasoning section of this decision are incorporated herein by this reference. To the extent any of the foregoing are improperly designated and are instead conclusions of law, they are hereby redesignated and incorporated herein as conclusions of law.

Based on the above Findings of Fact, Reasoning and Conclusions of Law, the Hearing Examiner enters the following:

ORDER

It is the order of the Hearing Examiner that the decision of the Lincoln County Board of Equalization be modified. The assessed value of the property is \$9,458,450.

Dated August 10, 2017



Ryan P. Darling
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