THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

AMAZON.COM.DEDC LLC, Appellant, v. JOHN WILSON, King County Assessor, Respondent.	)	Docket Nos. 95531 and 95532 RE: Property Tax Appeals PROPOSED DECISION

These matters came before Carol A. Lien, Chair, presiding for the Board of Tax Appeals (Board), on June 4, 2020, in an informal hearing pursuant to the rules and procedures set forth in chapter 456-10 WAC (Washington Administrative Code). James Poliyanskiy represented the Appellant, Amazon.com.dedc LLC (Owner). Trevor Swedberg, Commercial Appraiser, represented the Respondent, John Wilson, King County Assessor (Assessor).

The Board heard the testimony, reviewed the evidence, and considered the arguments made on behalf of both parties. The Board now makes its decision as follows:

VALUATIONS FOR ASSESSMENT-YEAR 2018

DOCKET NO. PARCEL NO.	VALUATIONS OF THE ASSESSOR AND COUNTY BOARD	CONTENDED VALUATIONS OF THE OWNER	VALUATIONS OF THE BOARD OF TAX APPEALS
95531 6600070010 (Parcel 0010)	Land: $18,953,500 Impr: $80,483,800 Total: $99,437,300 $120/SF	Land: $18,953,500 Impr: $61,289,216 Total: $80,242,716 $99/SF	Land: $18,953,500 Impr: $80,483,800 Total: $99,437,300 $120/SF
95532 6600070100 (Parcel 0100)	Land: $ 7,374,200 Impr: $26,928,000 Total: $34,302,200 $108/SF	Land: $ 7,374,200 Impr: $23,407,365 Total: $30,781,565 $97/SF	Land: $ 7,374,200 Impr: $26,928,000 Total: $34,302,200 $108/SF

ISSUES

The issues in these appeals are the January 1, 2018, true and fair market values of commercial properties located at 21005 64th Avenue South and 20526 59th Place South in Kent, Washington.

PROCEDURAL HISTORY

The Assessor assigned the subject properties the values shown in the table above. The Owner appealed to the King County Board of Equalization (County Board), which sustained the Assessor's values. The Owner now appeals to this Board, contending the values above. The Assessor asks the Board to sustain the assessed values.

FACTS AND CONTENTIONS

Parcel 0010 is improved with a masonry, average-to-good-quality, 830,533-square-foot,[1] distribution warehouse constructed in 2015. It has 40-foot ceilings, and the office build-out is 6.8 percent, or 18,860 square feet. The site is 1,895,357 square feet, or 43.511 acres.

Parcel 0100 is improved with a masonry, average-quality, 318,150-square-foot,[2] distribution warehouse constructed in 2014. It has 32-foot ceilings, and the office build-out is 3.4 percent, or 10,728 square feet. The site is 702,311 square feet, or 16.123 acres.

Owner's Evidence and Arguments

The Owner describes the subject properties as "mega-warehouses" due to their size. They are located adjacent to each other. The Owner contends that larger buildings with a single tenant do not command as high of prices as smaller buildings that are demised to accommodate multiple tenants.

Parcel 0010

In support of a reduced value, the Owner submits a cost approach and an income capitalization approach. Using *Marshall & Swift* cost data, the Owner calculates replacement cost new less depreciation of $61,301,932 for the improvement based on 811,673 square feet of shell area and 18,860 square feet of mezzanine office area. The Owner adds the improvement

[1] The Owner relies on the lease agreement figure of 811,673 square feet.
[2] The Owner relies on the lease agreement figure of 318,195 square feet.

value to the assessed land value to reach a total value of $80,255,432.[3] The Owner does not include entrepreneurial profit.

For its income approach, the Owner uses a rental rate of $5.75 per-square-foot for 811,673 square feet for potential gross income of $4,667,120. The Owner deducts 5 percent vacancy for effective gross income of $4,433,764. After deducting 5 percent for expenses, the Owner's net operating income is $4,212,076. The Owner applies a 5.25 percent capitalization rate for an indicated value of $80,230,019, or $98.85 per-square-foot. In support of its rental rate, vacancy rate, and capitalization rate, the Owner submits data from *CBRE, Colliers International*, *Real Estate Outlook Industrial*, and regional rental rates.

<u>Parcel 0100</u>

This building has a robotics storage platform, which the Owner contends is accounted for as personal property, separate from the real property subject to this appeal. The Owner explains the difference in square footage, as recorded by the Assessor, includes bathrooms and other common areas located on the robotics platform.

Using *Marshall & Swift* cost data, the Owner calculates replacement cost new less depreciation of $22,736,831 for the improvement based on 318,195 square feet of shell area and 10,728 square feet of mezzanine office area. The Owner adds the improvement value to the assessed land value to reach a total value of $30,111,031.[4] The Owner does not include entrepreneurial profit.

For its income approach, the Owner uses a rental rate of $5.75 per-square-foot for 318,195 square feet for potential gross income of $1,829,621. The Owner deducts 5 percent vacancy for effective gross income of $1,738,140. After deducting 5 percent for expenses, the Owner's net operating income is $1,651,233. The Owner applies a 5.25 percent capitalization rate for an indicated value of $31,452,100, or $98.85 per-square-foot. In support of its rental rate, vacancy rate, and capitalization rate, the Owner submits data from *CBRE, Colliers International*, *Real Estate Outlook Industrial*, and regional rental rates.

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[3] Exhibit A1-6 for Docket No. 95531.
[4] Exhibit. A1-6 for Docket No. 95532.

Assessor's Evidence and Arguments

Parcel 0010

The Assessor reports that a permit was issued in May 2014 for Parcel 0010 for $102,000,000, which excludes the $18,953,000 land cost. Additional consideration for entrepreneurial profit of 10 to 20 percent and the rapidly appreciating market would increase the value significantly.

For his market evidence, the Assessor submits seven comparable sales and an income capitalization approach.

- Assessor's Sale No. 1 is the February 2016 sale of the Fed-Ex Distribution Center, located at 3702 C Street Northeast for $21,900,000, or $142 per-square-foot. It is improved with a masonry-constructed, average-quality, 154,072-square-foot warehouse constructed in 2001, with an effective year-built of 2007. It has 29-foot ceilings, and the office build-out is 6 percent. The site is 654,579 square feet, or 15.03 acres.
- Assessor's Sale No. 2 is the December 2015 sale of 6233 Segale Park Drive for $202,800,000, or $156 per-square-foot. It is improved with a masonry-constructed, average-quality, 1,298,291-square-foot warehouse constructed in 1974, with an effective year-built of 1979. It has 24-to-26 foot ceilings. The site is 3,203,586 square feet, or 75.54 acres.
- Assessor's Sale No. 3 is the April 2015 sale of 4201 6th Avenue South for $63,250,000, or $158 per-square-foot. It is improved with a masonry-constructed, average-to-good-quality, 400,270 square-foot warehouse constructed in 1991, with an effective year-built of 2000. It has 20-foot and 35-foot ceilings, and the office build-out is 18.4 percent. The site is 589,224 square feet, or 13.53 acres.
- Assessor's Sale No. 4 is the August 2016 sale of 22828 68th Avenue South for $30,000,000, or $116 per-square-foot. It is improved with a masonry-construction, average-quality, 259,004-square-foot, warehouse constructed in 1968, with an effective-year-built of 1985. It has 12-foot, 14-foot, and 24-foot ceilings. The office build-out is 18.8 percent. The site is 1,153,468 square feet, or 26.48 acres. During the hearing, the Assessor removed this sale because the allocation of values could be uncertain.
- Assessor's Sale No. 5 is the October 2016 sale of 21255 76th Avenue South for $121,256, or $102 per-square-foot. It is improved with a masonry-construction, average-quality,

121,256-square-foot, warehouse constructed in 1974, with an effective-year-built of 1985. It has 22-foot ceilings, and the office build-out is 1.2 percent. The site is 280,000 square feet, or 6.43 acres.

- Assessor's Sale No. 6 is the December 2015 sale of 20280 84th Avenue South for $14,875,000, or $93.20 per-square-foot. It is improved with a masonry-construction, average-quality, 159,608 square-foot warehouse constructed in 1982, with an effective year-built of 1985. It has 24-foot ceilings. The site is 358,850 square feet, or 8.24 acres.
- Assessor's Sale No. 7 is the April 2015 sale of 8420 South 190th Street for $11,150,000, or $96.70 per-square-foot. It is improved with a masonry-construction, average-quality, 115,300-square-foot, warehouse constructed in 1992. It has 34-foot ceilings, and the office build-out is 5.2 percent.

The Assessor's sales range from $93.20 per-square-foot to $158 per-square-foot. Assessor's Sale Nos. 1, 3, and 5 were off-market sales and would require an adjustment due to the lack of exposure. Assessor's Sale No. 2 is significantly larger than either of the subject properties, although it is spread out over 13 buildings, however it is inferior in age, ceiling height, and sale date. The Assessor removes Assessor's Sale No. 4 from the analysis as the value allocation of the property maybe uncertain. Assessor's Sale Nos. 6, 7, and 8 (see below) illustrate the lower-quality buildings in the market. All of the sales are inferior to the subject in ceiling height and effective age. Except for Assessor's Sale No. 3, all of the sales are inferior in quality. All of the sales would require upward adjustments. Market data from *Colliers* reports 2017 sales average $166 per-square-foot, and market data from *Kidder Mathews* reports sales from $110 to $160 per-square-foot.

For his income approach, the Assessor uses a blended rental rate of $7.31 per-square-foot based on rental rates of $7 per-square-foot for 773,910 square feet of warehouse and $11.50 per-square-foot for 56,623 square feet of office, for potential gross income of $6,068,535. A 7 percent vacancy rate is subtracted for effective gross income of $5,643,737. After deducting $423,280, or 7.5 percent, for expenses, the Assessor's net operating income is $5,220,458. The Assessor applies a 5.25 percent capitalization rate for an indicated value of $99,437,000, or $108 per-square-foot. In support, the Assessor provides *Colliers* rental rate data, *Kidder Mathews* vacancy data, *Transwestern* vacancy, rental rate, and capitalization rate data, *CBRE* capitalization rates, and *National Real Estate Investor* vacancy and rental rates.

Parcel 0100

The initial building permit issued in 2013 was for $21,500,000. Several other tenant improvement permits issued total another $2,000,000. This amount does not include the $7,374,000 land value. Additional consideration for entrepreneurial profit of 10 to 20 percent and the rapidly appreciating market would increase the value significantly.

For his market evidence, the Assessor submits seven comparable sales and an income capitalization approach. The Assessor relies on Assessor's Sale Nos. 1, 3, 5, 6, and 7, above and adds the following sale.

- Assessor's Sale No. 8 is the March 2016 sale of 18405 72nd Avenue South for $31,602,000, or $288 per-square-foot. It is improved with a masonry-construction, average-quality, 267,715-square-foot, warehouse constructed in 1978, with an effective year-built of 1985. It has 26-foot ceilings, and the office build-out is 9 percent. The site is 547,004 square feet, or 12.58 acres.

The Assessor's sales range from $93.20 to $158 per-square-foot.

For his income approach, the Assessor uses a blended rental rate of $6.89 per-square-foot based on rental rates of $6.75 per-square-foot for 307,422 square feet of warehouse and $11.00 per-square-foot for 10,728 square feet of office, for potential gross income of $2,193,107. A 7 percent vacancy rate is subtracted for effective gross income of $2,039,589. After deducting $152,969, or 7.5 percent, for expenses, the Assessor's net operating income is $1,886,620. The Assessor applies a 5.5 percent capitalization rate for an indicated value of $34,302,179, rounded to $34,302,200, or $108 per-square-foot. In support, the Assessor provides *Colliers* rental rate data, *Kidder Mathews* vacancy data, *Transwestern* vacancy, rental rate, and capitalization rate data, *CBRE* capitalization rates, and *National Real Estate Investor* vacancy and rental rates. In particular, the *Colliers* data indicates an increase of rental rates of 10.7 percent from 2016 to 2017, or a rental rate of $7.44 per-square-foot for shell space.[5] *Transwestern* data reports a rate of $7.68 per-square-foot for shell space.[6] For vacancy rates, the Assessor's sources report rates between 3.3 and 3.7 percent. *CBRE* reports Class A capitalization rates from 3.75 to 4.25 percent.

[5] Ex. R1-14 for Docket No. 95531.
[6] Ex. R1-24 for Docket No. 95531.

Owner's Rebuttal of Assessor's Evidence

The Owner contends that the Assessor's market evidence of rental rates could include significantly different sized properties than the subject, whereas the Owner has provided specific rental rates for similarly sized properties. The Owner recites the rates for Kent including $5.76 per-square-foot signed in December 2017, after being on the market for 12 months;[7] $5.88 per-square-foot signed in May 2016, after being on the market for four months;[8] $5.52 per-square-foot signed in July 2016, after being on the market for eight months;[9] and $5.88 per-square-foot signed in May 2016, after being on the market for six months..[10]

The Owner contends that the subject is not a Class-A property because typical Class-A properties have 35-foot ceilings. The subject's higher ceilings represent economic obsolescence.

The Owner argues that the Assessor uses smaller comparable sales. It would be costly to demise the subject properties into smaller spaces.

The Owner contends that the permitted values do not equal the cost approach derived value. Further, the Owner contends that some of the raw permitted value should be assigned to personal property.

The Owner critiques the Assessor's sales as follows. Assessor's Sale No. 1 included debt assumption resulting in a higher price, and the sale is smaller than either subject property. Assessor's Sale No. 2 is made up of 13 buildings, each one of which is demised into smaller spaces. Assessor's Sale No. 3 was an off-market sale. Assessor's Sale 4 is a sale of four flex buildings with 20 percent office space, and because office space build-out is much more expensive than shell space, it commands higher rents. Assessor's Sale No. 5 was bought by the tenant and not exposed to the market. Assessor's Sale Nos. 6, 7, and 8 are older and smaller than the subject properties.

The Owner did not include entrepreneurial profit in its cost approaches, because the subject properties were not spec-built. The subject properties were built for Amazon. The Owner asserts that entrepreneurial profit was paid to the developer for a percentage of the cost, and the entrepreneurial profit was inherent in the cost.

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[7] A1-24 for Docket No. 95532.
[8] A1-29 for Docket No. 95532.
[9] A1-32 for Docket No. 95532.
[10] A1-33 for Docket No. 95532.

Assessor's Rebuttal of Owner's Evidence

The Assessor observes that many of the Owner's lease rate comparables are from the Fife and Sumner and are inferior in location to the subject properties and outside of their market area.

The Assessor was in contact with another of the Owner's representatives in an attempt to reconcile the differences in square footage for Parcel 0010, and understood that they were in agreement. The Assessor further notes that the lease document states the net rentable area is 811,673 square feet, and specifically states "[a]ny mezzanine or additional floor levels added . . . shall not be included in the rentable square footage." The Assessor, however, is mandated to value this area. The Assessor has been unable to locate any personal property records to account for the value of the additional area.

The Assessor states that the subject properties could be demised into smaller units and rented for higher amounts. It is common for larger warehouses to reconfigure their spaces to accommodate changing needs over the years.

The remainder of the parties' evidence is contained within the record. The Board reviewed the relevant evidence prior to issuing this decision.

APPLICABLE LAW

General Principles of Property Valuation for Taxation Purposes. Under Washington law, all property must be valued at "one hundred percent of . . . true and fair value." *True and fair value* is synonymous with *fair market value*,[11] which "is the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell."[12] To reach an opinion of fair market value, the appraiser must consider a property's highest and best use,[13] unless the use is prohibited "under existing zoning or land use planning ordinances or statutes or other government restrictions."[14] In the course of determining a property's value, assessors must allocate the value to the land and the structures, giving care that

[11] *Cascade Court Ltd. Partnership v. Noble*, 105 Wn. App. 563, 567, 20 P.3d 997 (2001) (observing that "[t]he phrase 'true and fair value in money' has been consistently interpreted to mean 'fair market value'").
[12] WAC 458-07-030(1).
[13] WAC 458-07-030(3).
[14] RCW 84.40.030(3)(a).

the sum of those values does not "exceed the true and fair value of the total property as it exists."[15]

Washington law[16] requires that fair market value be determined using the sales comparison approach, with further consideration of the cost and income capitalization approaches. In the absence of a sufficient number of comparable sales, or when valuing a complex property, either the cost or income capitalization approach, or both, "must be the dominant factors in valuation."[17] The assessed values of other properties do not constitute relevant evidence of the subject property's market value, nor does the assessed value of the subject property from a previous or subsequent assessment year.[18] This is because a comparison of assessed values is not a recognized appraisal practice, nor is it authorized by RCW 84.40.030(3).

Sales Comparison Approach. In the sales comparison approach,[19] an appraiser arrives at the property's fair market value by considering sales of the property being appraised or sales of similar properties occurring within the past five years.[20] Key factors for determining whether a sale property and the subject property are "similar" include: (1) location; (2) age, size, construction quality, and condition of improvements; and (3) special features of the site, such as view or waterfront.[21] The Board places the greatest weight on sales most similar to the subject property that sold closest to the assessment date.[22]

Cost and Income Capitalization Approaches. The cost approach derives the subject property's value "by adding the estimated value of the site to the current cost of constructing a reproduction or replacement for the improvements and then subtracting the amount of depreciation."[23] The cost approach is well suited to the valuation of "new or nearly new

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[15] RCW 84.04.090 defines *real property* as "the land itself . . . and all buildings, structures or improvements or other fixtures of whatsoever kind thereon." RCW 84.40.030(3)(c) "necessarily contemplates the potential adjustment of component values to keep their sum within a property's total assessed value." *University Village Ltd. Partners v. King County*, 106 Wn. App. 321, 326, 23 P.3d 1090 (2001).
[16] RCW 84.40.030(3).
[17] RCW 84.40.030(3)(b).
[18] *Matalone v. Hara*, BTA Docket No. 71193 (2010).
[19] APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 377 (14th ed. 2013).
[20] RCW 84.40.030(3)(a).
[21] *See* THE APPRAISAL OF REAL ESTATE, *supra*, at 45, 366, 381.
[22] *See* WAC 458-14-087(4) (requiring the Board of Equalization to assign "[m]ore weight . . . to similar sales occurring closest to the assessment date which require the fewest adjustments for characteristics"). In some decisions, the Board has viewed as dissimilar a sale property that requires gross adjustments in excess of 25 percent of the sale price. *See Reef Adams, LLC v. Washam*, BTA Docket No. 70007, at 7 (2011).
[23] THE APPRAISAL OF REAL ESTATE, *supra*, at 47.

improvements and properties that are not frequently exchanged in the market."[24] The income approach is used to determine the fair market value of income-producing properties, such as hotels, apartments, office buildings, and shopping centers. In simplest terms, the appraiser determines the property's reasonably anticipated net operating income and then "capitalizes the income into an indication of present value."[25] RCW 84.40.030(3)(b) defines the income to be capitalized as "income that would be derived from prudent use of the property, as limited by law or ordinance."

Burden of Proof. Under RCW 84.40.0301, an assessor's original valuation of property is presumed correct, a presumption that applies solely to the assessor's valuation, not to any decision of a county board of equalization.[26] To overcome an assessor's presumption of correctness, and for an owner or taxpayer to prevail on appeal, the record must contain "clear, cogent and convincing"[27] evidence sufficient to indicate that a value correction is in order. The "clear, cogent, and convincing" standard requires "proof that is less than 'beyond a reasonable doubt,' but more than a mere 'preponderance'"; evidence is "clear, cogent, and convincing" if it shows "that the fact in issue is 'highly probable.'"[28]

Authority of the Board of Tax Appeals. To resolve a property valuation appeal, the Board holds a *de novo*, or new, hearing and relies on the testimony and evidence presented to the Board.[29] Consistent with RCW 84.40.030(1), the Board may uphold either party's contended value or find a different value. Under RCW 84.08.060, however, "the board of tax appeals . . . shall not raise the valuation of the property to an amount greater than the larger of either the valuation of the property by the county assessor or the valuation of the property assigned by the county board of equalization." Ultimately, the Board makes "such order as in its judgment is just and proper."[30]

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[24] *Id.*
[25] *Id.* at 439.
[26] AGO 1986 No. 3, at 10.
[27] RCW 84.40.0301.
[28] *Tiger Oil Corp. v. Yakima County*, 158 Wn. App. 553, 562, 242 P.3d 936 (2010) (quoting *Davis v. Dep't of Labor & Indus*., 94 Wn.2d 119, 126, 615 P.2d 1279 (1980), and *In re Welfare of Sego*, 82 Wn.2d 736, 739, 513 P.2d 831 (1973)).
[29] *See Ridder v. McGinnis*, BTA Docket No. 33754, at 4 (1988) (citing AGO 1986 No. 3, at 8-9); RCW 84.08.130(1).
[30] RCW 84.08.130(1).

ANALYSIS

For the Owner to prevail in these appeals, the hearing record must contain clear, cogent, and convincing evidence that value corrections are in order. The evidence before the Board does not meet this standard. Thus, the Board concludes the Owner has not met the burden of showing it is highly probable the Assessor overvalued the subject properties for assessment-year 2018.

The Owner's reliance on the lease agreement for the square-footage figure for Parcel 0010 results in an under-estimated value in its income capitalization approach. As noted by the Assessor, the lease specifically states that it does not include build-out of the mezzanine or additional floor levels. That build-out, however, must be included in the valuation of the building. The Owner does not include the additional 18,860 square feet in its income approach contending that it is paid under a personal property assessment. The Owner does not provide evidence to support this contention, and the Assessor cannot locate any records that would confirm the assertion.

The Owner's cost approach is flawed because it does not include entrepreneurial incentive, and the Owner's explanation for that mixes actual costs, the evidence of which we have from the building permits, and the cost approach and entrepreneurial profit as defined by the Appraisal Institute:

> A set of procedures through which a value indication is derived for the fee simple estate by estimating the current cost to construct a reproduction of (or replacement for) the existing structure, including an entrepreneurial incentive or profit; deducting depreciation from the total cost; and adding the estimated land value.[31]
>
> Entrepreneurial profit is in addition to contractor's profit and overhead. It is a market-derived figure which represents the amount an entrepreneur expects to receive for his or her contribution to the project. If the cost of developing a property is used to provide an indication of value, the appraiser must recognize the contribution of the entrepreneur and consider the inclusion of entrepreneurial profit in addition to direct and indirect costs.[32]

The Owner's rental rates are dated from one to 17 months prior to the January 1, 2018, assessment date at issue here. The most recent rate was for a property that was vacant for one year. This is not sufficient evidence to overcome the Assessor's market evidence from *Colliers* and *Transwestern*, in particular that rental rates increased 10.7 percent from 2016 to 2017, and that shell space ranges from $7.44 to $7.68 per-square-foot. Further, the Owner makes no attempt to value

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[31] THE APPRAISAL OF REAL ESTATE, *supra*, at 562.
[32] *Id.* at 573.

the 18,860 square-feet of office space within its income approach, nor to acknowledge that it would command a higher rental rate.

The Assessor's comparable sales and income approach fully support the subject properties' assessed values.

DECISION

In accordance with RCW 84.08.130, the Board sustains the determinations of the King County Board of Equalization and orders the values as shown on page one of this decision. The King County Assessor is hereby directed that the assessment and tax rolls of King County are to accord with, and give full effect to, the provisions of this decision.

DATED this 28th day of August, 2020.

BOARD OF TAX APPEALS

Carol A Lien

CAROL A. LIEN, Chair

Right of Review

Pursuant to WAC 456-10-730, you may file a written exception to this Proposed Decision. You must file the letter of exception with the Board of Tax Appeals within 20 calendar days of the date the Proposed Decision is issued, by electronic or U.S. mail. You also must serve a copy on all other parties. The written exception must clearly specify the factual and legal grounds upon which the exception is based. No new evidence may be introduced in the written exception, nor may a party or parties raise an argument that was not raised at the hearing.

The other parties may submit a reply to the exception within 10 business days. The Board will then consider the matter and issue a Final Decision. There is no reconsideration from the Board's Final Decision.

If no written exception is filed, the Proposed Decision becomes the Board's Final Decision 20 calendar days after issuance of the Proposed Decision.