

THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

INTERFOR US INC.,)	
)	
Appellant,)	Docket Nos. 97318 and 98834
)	
v.)	RE: Property Tax Appeal
)	
PAMELA RUSHTON,)	PROPOSED DECISION
Clallam County Assessor,)	
)	
Respondent.)	
_____)	

These matters came before Mark W. Pree, Tax Referee, presiding for the Board of Tax Appeals (Board), on March 29, 2022, in an informal hearing pursuant to the rules and procedures set forth in chapter 456-10 WAC (Washington Administrative Code). Scott Mitchell, Tax Manager, and Andrew Davis, Managing Director of Strategic Valuation Services, of DuCharme, McMillen & Associates, represented the Appellant, Interfor US Inc. (Owner), with Dave Dionne, the Owner’s Director of Finance Northwest Operations, and Steve Kroll, the Owner’s General Manager Special Projects. Melissa Olivas, Advisory Appraiser with the Department of Revenue (DOR), Sunny Liston, Supervisor of DOR’s Industrial and Real Property Appraisers, and Layton Lund, Deputy Assessor, represented the Respondent, Pamela Rushton, Clallam County Assessor (Assessor).¹

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:

¹ Rich Meier, Coordinator for the Clallam County Board of Equalization, observed.

VALUATIONS FOR ASSESSMENT-YEAR 2019

DOCKET NO. PARCEL NO.	VALUATIONS OF THE ASSESSOR AND COUNTY BOARD	CONTENDED VALUATION OF THE OWNER	VALUATION OF THE BOARD OF TAX APPEALS
97318	Land: \$159,969 <u>Impr: \$67,538,993</u>	Land: \$159,969 <u>Impr: \$33,083,893</u>	Land: \$159,969 <u>Impr: \$57,840,031</u>
72849	Total: \$67,698,962	Total: \$33,243,862	Total: \$58,000,000

VALUATION FOR ASSESSMENT-YEAR 2020

DOCKET NO. PARCEL NO.	VALUATION OF THE ASSESSOR ON DIRECT APPEAL	CONTENDED VALUATION OF THE OWNER	VALUATION OF THE BOARD OF TAX APPEALS
98834	Land: \$159,969 <u>Impr: \$67,538,993</u>	Land: \$159,969 <u>Impr: \$36,698,445</u>	Land: \$159,969 <u>Impr: \$59,840,031</u>
72849	Total: \$67,698,962	Total: \$36,858,414	Total: \$60,000,000

ISSUES

The issues in this appeal are the true and fair market values of a lumber mill located at 243701 Highway 101 West outside of Port Angeles, Washington on January 1st of 2019 and 2020.

PROCEDURAL HISTORY

The Assessor assigned the subject property the values shown in the tables above. The Owner appealed the 2019 assessed value to the Clallam County Board of Equalization (County Board), which sustained the Assessor's value. The Owner now appeals to this Board, contending the value in the first table above. The Assessor asks the Board to sustain the assessed value.

For the 2020 assessment year, the Assessor assigned the subject property the value shown in the second table above. The parties requested, the County Board acquiesced, and the Board

granted, a direct appeal to this Board. The Owner contends the value in the second table above. The Assessor asks the Board to sustain the original assessed value.

FACTS AND CONTENTIONS

The subject property is an 18.53-acre parcel improved with a 91,000-square-foot sawmill built in 1998 with upgrades in 2005-2007. It also has a 3,400-square-foot, below-average office and a 25,000-square-foot, low-cost, prefab-steel, shade cover. The sawmill is a low-cost, average Class S construction (prefab metal sheet walls and roof with no insulation and metal support beams) building. The Assessor considers the condition and quality of the buildings to be average overall.

The subject is located in just outside the Port Angeles city limits. The subject operates as a single economic unit with two adjacent parcels, whose assessed values are not appealed.² The three-parcel economic unit totals 51.6 acres with the building improvements assigned to the subject parcel.

DOR inspected the subject in January 2018.³ No external obsolescence or excess functional obsolescence was noted.⁴ Neither party notes any physical deficiencies. The Owner states there were no significant changes to the subject between January 2018, and January 1, 2020. The parties agree that there were no sales of similar sawmills that would be reliable indicators of the subject's value on either assessment date.

Owner's Evidence and Arguments. The Owner estimates the subject's contended market value for the 2019 assessment year by reconciling the values from the five valuation approaches listed below:⁵

Cost Approach TIM - same as DOR	\$35,350,000
Cost Approach MVS (RCNLD) - same as DOR	\$41,040,000
Income Approach Direct Cap Yield on Gross Cash Flow	\$39,300,000
Income Approach Direct Cap Capital Asset Pricing Model	\$32,600,000
Income Approach Revenue Multiple	\$31,600,000

² Parcel No. 72825 valued at \$159,452 and Parcel No. 72850 valued at \$126,042 for the 2019 assessment year. Personal property shows a value of \$1,015,544 under Parcel No. 12114.

³ Docket No. 97318 at R2-4.

⁴ Docket No. 97318 at R2-7.

⁵ Docket No. 97318 at A2-10.

After considering the values derived from these approaches, the Owner selects \$37,000,000 as the market value of the subject on January 1, 2019.

The Owner estimates the subject's contended market value for the 2020 assessment year by reconciling the values from the five valuation approaches listed below:⁶

Cost Approach TIM – not the same as DOR	\$34,200,000
Cost Approach MVS (RCNLD) – not the same as DOR	\$41,700,000
Income Approach Direct Yield on Gross Cash Flow	\$44,900,000
Income Approach Direct Cap Capital Asset Pricing Model	\$37,000,000
Income Approach Revenue Multiple	\$44,200,000

After considering the values derived from these approaches, the Owner selects \$38,000,000 as the market value of the subject on January 1, 2020.

The Owner does not offer an appraisal. The Owner analyzes DOR's valuation, specifically the assumptions made by DOR in weighting the valuation approaches and measuring operating expense deductions.

Mr. Kröll testifies the subject was built to cut Douglas fir and hemlock logs with diameters of 19 inches or less into one-by-fours, two-by-fours, and two-by-sixes of 6- to 12-foot lengths or 4-meter lengths. The subject can cut up to 190-million board feet, but depending upon the log specie mix, its drying capacity can limit its onsite production to 160-million board feet.⁷ The subject's improvements are restricted to a 40-foot-height limit, which the Owner explains limits any increase of its onsite production. According to Mr. Kröll, future variances to the subject's zoning that would allow the Owner to expand the subject's capacity are unlikely.

Because lumber is a fungible commodity, stud prices can increase or decrease 20 to 30 percent in a week while the cost of logs may remain unchanged because their costs are fixed under longer-term agreements. Mr. Dionne testifies that the cost of logs is the Owner's primary expense. Logs represent 75 to 80 percent of the cost of making studs. Operating and other costs, including labor, make up the balance. As log costs varied, the subject's annual income would swing from a profit one year to a loss the next, then back again.⁸

Because the Owner does not own nearby timberland, it must purchase logs on the open market from third parties. The local species mix is approximately 70 percent hemlock and 30

⁶ Docket No. 98834 at A3-12.

⁷ Douglas fir dries in half the time as hemlock.

⁸ See R2-17.

percent Douglas fir. To maximize its production due to its drying capacity, the Owner needs to acquire at least 55 percent Douglas fir and not more than 45 percent hemlock because hemlock takes twice as long to dry. Douglas fir may be acquired from greater distances with a higher transportation cost to maximize production at the subject. Furthermore, if more hemlock logs are sawed at the subject, the Owner would need to truck the boards to another drying facility and incur a much higher cost. Most of the studs are exported, primarily to China.

Mr. Mitchell explains that most competitors who own their own timberlands are primarily REITs (real estate investment trusts). REITs are required to have 75 percent of their assets in real estate such as timberlands. Because they own their timber, REITs can control their most expensive cost component, logs, in making studs. Unless they have excess logs, they can deny the Owner the ability to purchase their logs. According to Mr. Mitchell, because their net income is more stable and less risky, REITs also sell with a lower expected return that supports lower capitalization rates than for other forest-product companies similar to the subject whose operations are riskier because their income is subject to the fluctuating cost of logs.

The Owner agrees with the DOR's two cost approach values, but prefers the trended investment method (TIM) cost approach based on the estimated cost of the subject's original improvements trended up to the assessment year using DOR's cost trending data. According to the Owner, under the theory of substitution, the cost approach value of a similar sawmill should limit the higher income approach value of the subject. Rather than buy the existing subject, if a potential buyer could build a comparable mill, the cost to acquire land and build a new mill would be the upper limit (adjusted for the time to acquire the land, permits, and any associated risks). According to Mr. Kroll, it might take up to two years to obtain a permit and build another sawmill depending upon the workload of the permitting office.

Mr. Mitchell explains that while the Direct Yield on Gross Cash Flow or (DCF) method was used by DOR, it is not the most common type of income approach to be used to value properties similar to the subject. But the Owner adjusts DOR's DCF approach based on market evidence for the 2019 and 2020 assessment years as shown side-by-side with the 2019 DCF approach in the Assessor's evidence.

The Income Approach Direct Cap Capital Asset Pricing Model deducts sustaining capital from the cash flow to an investor.⁹ That method examines the risk related to the stock price.

⁹ A2-8.

While it deducts sustaining capital, it capitalizes the income at a lower rate for the capital expenses necessary to keep the business operating. According to the Owner, the DCF approach deducting percentages of non-REIT forest-product companies similar to the subject should support a value of \$39,300,000 for the 2019 assessment year, and \$44,900,000 for the 2020 assessment year.

The Income Approach Revenue Multiple or business enterprise value (BEV) uses industry multiples compared to the subject's revenue.¹⁰ The Owner contends the levered Betas (debt to equity ratios) from similar forest-product companies support a 0.6 multiple,¹¹ which would indicate a value of \$45,840,556.¹² According to the Owner, DOR applied a much higher multiple of 1.12 to the subject's \$76,400,926 revenue, which would indicate a BEV of \$85,491,653. According to the Owner's data from the lumber industry the much lower multiple results in a more reliable indicator of the subject's value.

The Owner considers the two cost approach values and the three income approach values together. Mr. Davis contends that DOR's cost approach should be limited by the principle of substitution the subject's income approach value to its replacement cost. The Owner concludes the five valuation methods support a value of \$37,000,000 for the subject on January 1, 2019, and a value of \$38,000,000, on January 1, 2020.

Assessor's Evidence and Arguments. DOR provided one appraisal in 2019 as the Assessor's basis for the subject's assessed value for both the 2019 and 2020 assessment years.¹³ The DOR's appraisal includes three substantially different values from three distinct valuation methods. First, a direct capitalization of gross cash flow (DCF) income approach results in a value of \$76,000,000. A replacement cost new less depreciation (RCNLD) based on the *The Marshall Valuation Service* provides a value of \$41,000,000. The third approach is a TIM based

¹⁰ A2-9.

¹¹ See A2-12.

¹² See A2-9.

¹³ Mr. Liston explains that DOR did a preliminary advisory appraisal and revised it to a restrictive report for the 2020 assessment year stating DOR did not see enough evidence to revise the 2019 assessment for assessment-year 2020. A new summary narrative was not prepared. Although DOR prepared a preliminary appraisal in 2020, which it shared with the Owner, Mr. Liston testifies it supported a much higher value, and he took a conservative approach by not using that preliminary appraisal. Due to the uncertainty caused by the pandemic, DOR relied on the 2019 appraisal. The preliminary appraisal or associated workpapers are not in the record.

upon the original cost trended up to the assessment date less depreciation that shows a value of \$35,400,000.¹⁴

For its DCF income approach, DOR calculates as a percentage of sales averages from five forest-product companies operating in the subject’s region. The Assessor capitalizes the income determined in its DCF approach after considering various financial components of the five companies.¹⁵ DOR’s DCF income approach is shown side-by-side with the Owner’s yield on gross cash flow income approaches, in which the Owner substitutes the REITs’ data with data from other forest-product companies in the table below:

Income Approach¹⁶	DOR 2019 & 2020	Owner 2019¹⁷	Owner 2020¹⁸
Sales	\$76,400,926	\$76,400,926	\$72,856,400
Operating Expenses	\$65,108,869	88.78% - \$67,826,846	89.42% - \$65,150,849
EBITDA ¹⁹	\$11,292,057	\$8,574,080	\$7,705,551
Less Depreciation	4.3% - \$3,250,547	3.18% - \$2,425,811	4.3% - \$3,133,604
EBT ²⁰ & Debt	\$8,041,510	\$6,148,269	\$4,571,947
Income Tax	23.4% - \$1,882,196	23.4% - \$1,438,695	25% - \$1,142,987
Earnings before Debt	\$6,159,314	\$4,709,574	\$3,428,960
Plus Depreciation	4.3% - \$3,250,547	3.18% - \$2,425,811	\$3,133,604
Plus Property Tax	\$413,831	\$413,831	\$413,831
Cash Flow to Capitalize	\$9,823,692	\$7,549,216	\$6,976,395
Capitalization Rate	11.5%	13.98%	12.09%
Capitalized Value	\$85,491,653	\$54,000,000	\$57,700,000
Less Working Capital	12.5% - \$9,525,029	15% - \$11,460,079	12% - \$8,742,768
Less Intangibles	\$0 ²¹	6.03% - \$3,258,039	7% - \$4,039,000
Economic Unit Value (Rounded)	\$76,000,000	\$39,300,000	\$44,900,000

¹⁴ Docket No. 97318 at R2-18.

¹⁵ See R2-8 to R2-11.

¹⁶ DOR provides the same figures for its DCF income approach each assessment year. The Owner provides a separate cash flow for each analysis for each year. DOR explains the subject’s capitalized value would have been higher in 2020, but due to the uncertainty from the pandemic, opted to use the subject’s 2019 value.

¹⁷ Docket No. 97318 at A2-9.

¹⁸ Docket No. 98834 at A3-11. The Owner refers to this as the yield on cash flow income approach that mirrors DOR’s DCF but substitutes other forest-product companies’ data for the two REITs.

¹⁹ Earnings before interest, taxes, depreciation, and amortization.

²⁰ Earnings before taxes.

²¹ See R2-12. Although the Department acknowledges there may be some intangible value, that value is unknown. Mr. Mitchell testifies in DOR’s preliminary 2020 workpapers, DOR deducted 5 percent for intangibles. The workpapers are not in the record. Mr. Liston explains that DOR did a preliminary advisory appraisal and revised it to a restrictive report for the 2020 assessment year stating DOR did not see enough evidence to revise the 2019 assessment for the 2020 assessment year. A new summary narrative was not prepared.

Because of the subject's age, DOR finds the TIM and RCNLD cost methods are less reliable. DOR attributes 80 percent weight to the income approach and less weight to its cost approaches. DOR concludes that the economic unit had a total value of \$69,000,000.²² Mr. Liston explains DOR's income approach and that the reconciliation takes intangibles into account.²³ The Assessor separated the value of tangible personal property from the economic unit's real property value by deducting \$1,015,544. The personal property was assigned its own parcel number and reported as Parcel No. 12114. The Assessor also deducted the undisputed assessed values of Parcel No. 72825 (\$159,452) and Parcel No. 72850 (\$126,042) to derive the subject's assessed value of \$67,698,962.²⁴ Other than the intangible deduction, it is unclear how the Owner accounted for the other parcels included in the economic unit.

Mr. Lund provides the basis for the subject's land value, which is not disputed.²⁵ The Assessor requested an advisory appraisal from DOR. DOR inspected the subject in January 2018. In this case, DOR's appraisal was effective on January 1st of each assessment year. Mr. Lund testifies that he relies on the DOR appraisal to support his total assessed value of the subject. The Owner did not appeal the assessed values of the two additional parcels. The Owner only appealed the value of the improved subject parcel.

Owner's Rebuttal of Assessor's Evidence. The Owner does not provide an appraisal. The Owner does not object to the Assessor's value of the subject based upon either cost approach. Rather, the Owner disputes the 20 percent weight that the Assessor gives the cost approach values. Because the Assessor uses data from two REITs, Weyerhaeuser Company (Weyerhaeuser) and PotlatchDeltic (Potlatch) with three other publicly traded forest-product companies operating in the subject's region, the Owner contends the REITs skew the operating expenses applied in DOR's income approach. The Owner relies in part on the Assessor's income approach adjusted for market data by removing data from the two REITs, and the Owner substitutes data from three forest-product companies operating in the United States. Two of the

²² See R2-15. Detail supporting the cost approaches is not in the record, specifically, the replacement cost new of the subject's improvements, only the conclusory value indications after depreciation of \$35,351,826 and \$41,042,800 (rounded value of \$41,000,000). See R2-18,

²³ See R2-18. There may still be unknown intangible values, which would not be included in the cost approaches, and therefore by giving weight to the cost approach values decreases the impact of unknown intangibles. No specific intangibles have been identified.

²⁴ See R3-1.

²⁵ R4-1.

companies, Canfor and Louisiana Pacific operate in the subject's region, but the other may not operate in the subject's market. The Owner contends the REITs skewed the market data for costs downward. Because REITs own most of the timber they saw in their mills, REITs do not have to buy logs on the market from unrelated owners at higher prices. The Owner reasons that because of their lower cost for timber, REITs' operating expenses are lower, which results in DOR overestimating the subject's income.

Finally, according to the Owner, because REITs have more stable income than other forest-product companies, they are less risky. With less risk, a lower capitalization rate is used to capitalize REIT income to determine REITs' business values. By including Weyerhaeuser and Potlatch to determine the appropriate rate to capitalize the subject's income, DOR has capitalized the income at a lower rate than appropriate for the subject, which is not a REIT. The Owner states that just because Weyerhaeuser and Potlatch have the financial ability to purchase the subject, does not mean their operating margins should be the basis for the deductions against the subject's revenue. The operating expense margins of other forest-product companies purchasing logs in the subject's market is a better indicator of the subject's operating expense margin. Because Weyerhaeuser and Potlatch harvest their own logs, their log costs do not reflect the costs that would be incurred to operate the subject.

Assessor's Rebuttal of Owner's Evidence. The Assessor did not allow an intangible personal property deduction. The Assessor explains that the studs sold by the Owner are certified, standard one-by-fours, two-by-fours, and two-by-sixes that are a fungible commodity with no brand loyalty. The Owner has provided no evidence of favorable contracts, goodwill from the ongoing business, or other evidence to support any intangible value component associated with the subject's income.

Mr. Liston explains that DOR does not use the other two appraisal income methods offered by the Owner because they are subtractive and less reliable. Under those methods, the Owner determines the intangible values by allocating values to intangibles after subtracting the known asset values from the calculated value.

Mr. Liston explains DOR used the market data that was available in March 2019. DOR's budget was limited, but data from five forest-product companies operating sawmills in the subject's region were available. Smaller companies were not included. Information from Canfor

and Louisiana Pacific was not available in March 2019. Choice of metrics used by DOR was based on appraisal judgement. DOR concludes that the Board should defer to its certified appraisers for selection of the proper market metrics.

DOR argues that use of Weyerhaeuser and Potlatch data is appropriate because there are only a few forest-product companies with the substantial financial resources necessary to purchase the subject as an investment. Weyerhaeuser and Potlatch have mills similar to the subject in the subject's region.

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.”²⁶ *True and fair value* is synonymous with *fair market value*,²⁷ 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.”²⁸ To reach an opinion of fair market value, the appraiser must consider a property's highest and best use,²⁹ unless the use is prohibited “under existing zoning or land use planning ordinances or statutes or other government restrictions.”³⁰ In the course of determining a property's value, assessors must allocate the value to the land and the structures, giving care that the sum of those values does not “exceed the true and fair value of the total property as it exists.”³¹

Washington law³² requires that fair market value be determined using the sales comparison approach, with further consideration of the cost and income capitalization approaches if there are not sufficient comparable sales available. In the absence of a sufficient

²⁶ RCW 84.40.030(1).

²⁷ *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’”).

²⁸ WAC 458-07-030(1).

²⁹ WAC 458-07-030(3).

³⁰ RCW 84.40.030(3)(a).

³¹ 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).

³² RCW 84.40.030(3).

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.”³³ 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.³⁴ 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,³⁵ an appraiser arrives at a property’s fair market value by considering sales of the property being appraised or sales of similar properties occurring within the past five years.³⁶ 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.³⁷ The Board places the greatest weight on sales most similar to the subject property that sold closest to the assessment date.³⁸

Cost and Income Capitalization Approaches. In the cost approach, “value is indicated by the current cost of reproducing or replacing the improvements (including indirect costs and entrepreneurial incentive), less depreciation, plus land value.”³⁹ “Because cost and market value are usually more closely related when improvements are new, the cost approach is more important in estimating the market value of new or relatively new construction.”⁴⁰ The income approach is used to determine the fair market value of income-producing properties, such as hotels, apartments, office buildings, and shopping centers.⁴¹ “The income capitalization approach to value consists of methods, techniques, and mathematical procedures that an appraiser uses to analyze a property’s capacity to generate benefits (i.e., usually the monetary benefits of periodic income and reversion from a future sale) and convert these benefits into an

³³ RCW 84.40.030(3)(b).

³⁴ *Matalone v. Hara*, BTA Docket No. 71193 (2010).

³⁵ Appraisal Institute, *THE APPRAISAL OF REAL ESTATE* 351 (15th ed. 2020).

³⁶ RCW 84.40.030(3)(a).

³⁷ See *THE APPRAISAL OF REAL ESTATE*, *supra*, at 355, 363, 377.

³⁸ 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).

³⁹ *The Appraisal of Real Estate*, *supra*, at 29.

⁴⁰ *Id.* at 530.

⁴¹ *Id.* at 414.

indication of present value.”⁴² 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.⁴³ 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”⁴⁴ 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.’”⁴⁵

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.⁴⁶ 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.”⁴⁷

ANALYSIS

For the Owner to prevail in this appeal, the hearing record must contain clear, cogent, and convincing evidence that a value correction is in order. The evidence before the Board meets this standard. Although the Board concludes the Owner has met the burden of showing it is highly probable the Assessor overvalued the subject property for assessment-years 2019 and 2020, the Board is not persuaded that the Owner’s contended values are correct for either assessment year.

⁴² *Id.* at 413.

⁴³ AGO 1986 No. 3, at 10.

⁴⁴ RCW 84.40.0301.

⁴⁵ *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)).

⁴⁶ See *Ridder v. McGinnis*, BTA Docket No. 33754, at 4 (1988) (citing AGO 1986 No. 3, at 8-9); RCW 84.08.130(1).

⁴⁷ RCW 84.08.130(1).

The parties agree there were no sales of properties similar to the subject made within five years prior to the assessment dates. Therefore, under RCW 84.40.030(3)(b) the Board will consider both cost methods, RCNLD and TIM, as well as capitalization of income that would be derived from prudent use of the subject as the dominant methods to value the subject.

The Owner asserts that the cost methods should set the maximum value of the subject under the appraisal principle of substitution.⁴⁸ A buyer will not pay more for one property than for another that is equally desirable.⁴⁹ Under the cost approach, if a buyer could acquire a similar site and construct similar improvements without undue delay, it could be sold as a substitute for the subject.⁵⁰ The TIM or RCNLD methods provide values against which the value of the similar improved properties could be evaluated. The Board notes that although the Owner agrees with DOR's cost approach, DOR's RCNLD approach lacks sufficient detail of the replacement cost as a substitute for buying the subject. It only indicates the value after depreciation. Furthermore, based on the testimony of Mr. Kroll, the Board understands the County revised its zoning so the subject as currently configured would not meet the current zoning restrictions. The subject's existing improvements were grandfathered in. It is not clear where a substitute sawmill could be built. If the Board would presume another location with less restrictive zoning was available, the cost of the unrestricted land as well as improvements is uncertain.⁵¹ In applying the substitution principle to value the subject, if similar improved properties are not available for sale, the record would have to contain evidence of what it would cost to buy land and build similar improvements on the lot. Without detail of the subject's replacement cost new, the record lacks information necessary to apply the substitution principle. Values after depreciation under either cost method would not be a substitution by replacement involving the purchase of vacant land upon which improvements are constructed. Only the

⁴⁸ See Docket No. 98834 at A2-1. The Owner refers to a "County Board of Equalization Operations Manual" published by DOR pursuant to RCW 84.48.046. Mr. Davis quotes section 3.3A that the value of a property should not exceed what it would cost to replace the property. Mr. Liston testifies the manual was prepared as a teaching tool and he will remove the reference to substitution in future editions. The Board will analyze the principle of substitution according to the Appraisal Institute based upon the facts in the record.

⁴⁹ The Appraisal of Real Estate, *supra*, at 25.

⁵⁰ *Id.* at 528. Additional concerns along similar lines regarding the application of DOR's manual for the County Board were discussed. DOR's manual for its appraisers is not in the record and will not be discussed further.

⁵¹ See R2-18. The Owner relies on the Assessor's cost value, which includes the subject's land value as well as depreciated improvement values. Because the improvements are grandfathered in under current zoning restrictions, the cost of suitable building site land to build similar improvements is unclear. It is also unclear how costs under the TIM cost approach could provide a substitute to the subject because those improvements are not allowed under current zoning.

purchase of similar-aged property could be substituted to set a reliable limit of property with a similar age.

The Owner has provided clear evidence that convinces the Board that the Assessor's use of unadjusted operating expense data from Weyerhaeuser and Potlatch REITs skew a significant component of operating expense downward. The Board has previously recognized Weyerhaeuser's "timber-basket benefit" because its actual timber cost was much lower than the market rate for timber.⁵² Because the Owner must purchase timber at the market rate, the subject does not have the "timber-basket benefit." Under RCW 84.40.030(3)(b), income from prudent operation of the subject is capitalized. Prudent managers of the subject have no alternative to purchasing timber at market rates.

Both parties rely on a DCF income approach to value the subject. The Owner revises DOR's DCF to derive its income approach value. The Appraisal Standards Board advises for DCF valuation that the appraiser must ensure the controlling input is consistent with market evidence and prevailing market attitudes.⁵³ Market value DCF analysis should be supported by market-derived data and assumptions should be both market- and property-specific. Assumptions not based on market data do not reflect market value but instead the investment value.⁵⁴ Because the subject property does not have the timber-basket benefit, the operating cost percentages from Weyerhaeuser and Potlatch used in DOR's DCF are not derived from the subject's market.

But the Board also questions the Owner's alternative data derived from markets outside the subject's region. Three companies, Boise Cascade, Universal Forest Products, and West Fraser Timber are in the subject's region and their data are relied upon by both parties to value the subject. Their five-year mean and median average operating margins for wood products are below both the operating margins of Weyerhaeuser and Potlatch as are Louisiana Pacific and Canfor.⁵⁵ The Board finds clear evidence that attributes the lower operating-expense deduction of Weyerhaeuser and Potlatch to their timber-basket benefit. The evidence in the record supports

⁵² *Weyerhaeuser Company v. Walker*, BTA Docket No. 63874 (2007) at 8.

⁵³ Appraisal Foundation, Uniform Standards of Professional Appraisal Practice (USPAP), Advisory Opinion 33 (AO-33).

⁵⁴ *Id.*

⁵⁵ See A2-5. Louisiana Pacific and Canfor data may not have been available by March 31st of 2019, but their data are not necessary for the Board's findings.

capitalization of lower net operating income for the subject based upon the higher cost of acquiring timber in the subject's local market.⁵⁶

Although the Board is convinced the Assessor overvalued the subject, the evidence in the record does not persuade the Board that the Owner's contended values of the subject are correct for either assessment year. As discussed above, the Board does not find sufficient evidence to use the cost values as a limit to the subject's value. The Board agrees with the Assessor's reluctance to give more weight to the cost-approach values because they may overstate depreciation, which results in an unreliable value. The life expectancy and depreciation for a 15-year-old, low-cost, "Class S" industrial building vary substantially.⁵⁷ The Board, therefore, gives less weight to the cost approach and finds the Assessor's DCF income approach value, adjusted for the cost of timber purchased from third parties on the local market, to be a more reliable indicator of the subject's value.

The Board recognizes that the subject operates as a single economic unit with two additional parcels, identified as Parcel No. 72825 with an assessed value of \$159,452 and Parcel No. 72850 with an assessed value of \$126,042.⁵⁸ Their values have not been appealed. Nor has the assessed value of the personal property, \$1,015,544 for Parcel No. 12144. The values of these three parcels should be deducted from the capitalized value of the economic unit to derive the subject's real property value for both assessment years. It appears that the assessed values of the same parcels were also included in the Assessor's cost approach values.⁵⁹ Based on the higher risks of the subject relative to REITs, the evidence in the record also supports a higher capitalization rate.

The Board concludes that the Owner has provided clear, cogent, and convincing evidence that a value correction is in order. The Board finds that the preponderance of the evidence in the record supports a January 1, 2019, value for the subject property of \$58,000,000 (after deducting the assessed values of the parcels in the subject's economic unit). The Board finds that the

⁵⁶ *Id.* The first component of the timber-basket benefit is the cost saving from transportation due to the mill's proximity to the timber. Mr. Kroll testifies the subject acquires timber harvested within 70 to 100 miles of the subject. The Board does not accept the Owner's reliance of operating expense data from non-REIT companies across the United States as indicative of the costs in the subject's Washington market, but acknowledges due to the subject's limited drying capacity, it must acquire a higher percentage of Douglas fir, which further limits its timber-purchase options in an area where western hemlock comprises 70 percent of available stud-quality timber.

⁵⁷ See e.g. *Marshall & Swift*, §97 pp 8-16, 24.

⁵⁸ R3-1.

⁵⁹ See R2-18 and R2-15.

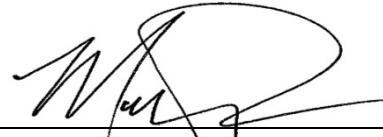
preponderance of the evidence in the record supports a January 1, 2020, value for the subject property of \$60,000,000. The Board therefore sets aside the values established by Assessor and the Clallam County Board of Equalization.

DECISION

In accordance with RCW 84.08.130, the Board sets aside the determination of the Clallam County Board of Equalization for the 2019 assessment year and orders the values for 2019 and 2020 as shown on page two of this decision. The Clallam County Assessor and Treasurer are hereby directed that the assessment and tax rolls of Clallam County are to accord with, and give full effect to, the provisions of this decision.

ISSUED June 8, 2022.

BOARD OF TAX APPEALS

A handwritten signature in black ink, appearing to read 'Mark Free', is written over a horizontal line.

MARK FREE, Tax Referee

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.