

The Conundrum of Concurrency

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Abstract

Determining the proper reduction in assessed value for the victim of concurrency takes some unusual research turns.

Defining Concurrency

In the State of Washington, the term "concurrency" refers to limiting development of certain areas due to an anticipated increase in traffic congestion as a result. The term relates to the concept that, when improvements are made, the infrastructure must be improved concurrently to accommodate any resulting traffic. Due to the unusual events that occurred during the research of this topic, I decided that its presentation would be served by a tongue-in-cheek approach. Nevertheless, with the exception of a few name changes and other insignificant artistic liberties, the valuation aspects—sales, offers, and other information—are accurate and true.

Losing the Sale

It started out as any other morning in the assessor's office. I was minding my own business, preparing for litigation with a semiconductor manufacturing facility that had appealed its value, trying to resist the sugary donuts in the break room. My phone rang,

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and it was the chief deputy assessor, who wanted me to come into her office for a moment. When I arrived, she had just finished a troublesome telephone conversation with a property owner.

"Mrs. Smith owns land on Success Boulevard, and she is very upset with the value we have given it," the deputy assessor told me. There has been somewhat of a moratorium on building on that street since the traffic planners started their concurrency program," she explained, "but this is the first time a property owner has called about losing a sale. She had an offer of \$300,000. We have it assessed at \$270,000. However, the offer fell through when the traffic people said 'no.' Would you research the property in that area, as well as the concurrency issue?"

Success Boulevard was a major arterial that I generally avoided because of heavy traffic. However, businesses thrived there, and only recently had concurrency become a criterion for development. I decided to start by calling the owner and getting more details.

"It was worth \$300,000, and now it's worth nothing," the woman remarked, quite upset. "Nobody will buy it now; yet, I still have this high tax bill. This adds insult to injury!"

"I understand your dilemma," I said, "and I'll look into it."

"No, you're from the government, and all you want to do is get tax money ..." she went on, raising her voice as we spoke.

"No, I'm from the government and ... and I'm here to help you," I said. *Oh no, I didn't really say that, did*

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I? It didn't matter, because she wasn't listening, anyway. She went on talking a blue streak.

"I'm stuck with this land, and everyone else who owns property on this street is, too," she continued. "I have to keep paying for nothing. It's worthless, and you don't care!"

"Mrs. Smith, please stop crying. I do care, Mrs. Smith, honestly."

"How much do you care?"

"A lot," I said, "I really will do my best to solve this problem for you. I don't want you to pay one nickel more than you owe, and I mean that, but figuring out the value in a situation like this is not simple—I'll have to do some research."

"Well, I know it's worth nothing, so I should pay nothing," she countered. "Does that help you any?"

"Yes, it does, but Mrs. Smith, could someone buy it from you for nothing? Would you give it away so you wouldn't have to pay the taxes?" I asked. She was silent for a moment.

"Well, no. Not until I'm certain that I can't build. Things could change. I found out that a group of us is calling our congressman about this situation," she said.

"Okay, well I'll get back to you," I said.

"When? People always say that, but they never do," she said.

"I'll call you in five days, and let you know what we have done," I promised.

Traffic Considerations

My next stop was the transportation office. The buyer for Mrs. Smith's land was an account billing operation and that seemed to be a good business to bring into the area. However, when I spoke with the transportation planners, the type of business didn't seem to matter.

"We don't look at the type of business," the transportation planner said. "It's the trips."

"The what?" I asked.

"The trips: how many trips it would add to the area, how much traffic would be increased. We wanted to bring that business in, but we couldn't because it added too many trips—according to the computer," he explained.

"Then the computer did it," I said, smiling. He didn't think that was funny. "How does it work?" I enquired.

"Well, your estimate of the trips goes in the model and ..." he said.

"Where do you get the estimates?" I asked.

"You just ... you estimate them. You figure how many employees there are and when they come to work, and stuff like that. After awhile you get the hang of it. Then you put that information in the computer, and it uses a formula to determine whether you can do it or not," he said.

"So what's the formula?" I asked.

"It's complicated, you wouldn't understand it," he said.

"Maybe I would. Try me," I countered. Then he looked at me and sighed.

"I can't," he said with finality.

"Why not?" I asked.

"Because I don't understand it, okay? Only the programmers do," he said.

"So who programmed the computer?" I asked.

"Well—just programmers, programmers who worked with traffic experts. There are different programs you can use, but our model was customized for our city," he added with some pride.

"So you might have different criteria in a different city?" I inquired.

"Well, of course. Every city is different," he said.

"Must be kind of like multiple regression analysis," I muttered.

"Multiple what?" he asked.

"Never mind," I said, "but what about the traffic study that must be done to develop the property? Is that part of the model?"

"No, that's extra," he said.

"Then why does it have to be done?" I asked. "Isn't it expensive?"

"Yes, but ... well, we like to have every opinion—not just the computer's," he said.

"That's reassuring. So, no one can build anything on Mrs. Smith's property?" I asked.

"On the contrary, they can build; they just have to pass the concurrency test," he said.

"How could they pass it?" I asked.

"Just don't add any extra trips," he replied.

"How can they do that?" I asked.

"If they come to work after 8 p.m. and leave before 4 a.m., they will be okay," he said comfortingly. "So, she can build; she just has to find the right business."

As I walked back to my office, I wondered if property owners could get different results depending on the traffic expert they hired. After calling realtors most of the day, I found out that everyone knew that no one could build on Success Boulevard anymore, so there had been no sales since the concurrency laws

had gone into effect. I wondered what the property could be worth.

How many businesses operated only a graveyard shift? Yet even a graveyard shift would not fit the concurrency dilemma because the shift had to end before the normal hours of morning traffic.

I also found that there were some efforts to stop the concurrency plan, or at least ease the restrictions, but it was unclear who was doing what or what the likelihood of success would be. The planners thought the only way the situation could change would be to widen the boulevard, but that expense was prohibitive. If it ever did happen, it might take twenty years. Moreover, the cost of the attorneys and the required traffic study would cost thousands of dollars. I wondered how many businesses would even want to take the risk of applying.

Risk really was the key to determining the value, I thought. Risk is always a consideration; however, in this case, it was paramount. Would the concurrency laws be eased or rescinded? I put myself in the place of a buyer. Would I want to go to all the expense and headache of trying to build on Success Boulevard, or would I rather just go somewhere else less congested? The only way to find the market value was to find sales, but there were none.

The next step in researching concurrency involved calling other states. I found out that Florida had maintained concurrency laws for several years, so I called some property appraisers, as well as attorneys on both sides of valuation disputes. No one had a clear answer, but all agreed that some reduction in value was in order. Different counties in Florida did things different ways—so the results were different. Yes, this was *before* the elections. One county had a moratorium on building for two years, but that was an easier problem to solve than the one I faced. With a finite time period, one could perform a present/future value estimate for the holding time. This same method could be used with the present situation, but the foundation would always be based on a complete unknown. Later that day, the deputy assessor walked by my office. Hastily I closed the *Opportunities* news-letter that I had been reading.

“How is the research going?” she asked.

“Fine,” I replied, smiling.

“Have a value yet?” she continued.

“No, but I’m close, closer than before,” I answered honestly.

Comparable Sales?

That night I was tossing and turning when my wife woke up. “Why can’t you sleep?” she asked me.

“It’s the concurrency thing. There doesn’t seem to be anything solid to base the value on,” I said.

“Didn’t you get into government appraising so there would be less stress?” she reminded me.

“Yes,” I answered, remembering how we had sold our fee shop in California to escape the long hours.

“Usually you pretend that you’re appraising it for a bank, instead of the county, and that makes you more objective,” she suggested. “Can you do that this time?”

“I’ve already done that,” I said.

“What conclusion did you reach?” she asked.

“Well, I can’t get past the call from the bank,” I explained.

“What do you mean?” she asked.

“Well, I get the call from the bank, and they explain the situation. Then I tell them this is not a good time for me to take the job, and I recommend several of my competitors,” I said.

The next day was better. I reached a commercial real estate agent who previously had an offer on one of her listings on Success Boulevard.

“The property has been listed for \$1 million,” she said.

“How much was your offer?” I asked.

“Well, it was half the amount, but the seller turned it down,” she said.

Fifty percent was nice and tidy—perhaps too much so. I decided to do my research on the value of the land as parkland. It seemed unlikely that the city would buy all the property along Success Boulevard to make parks, but it was important to have any and all the information I could get.

The value of parkland turned out to vary a great deal, depending on the locality. However, it was generally substantially lower than the price of commercial land. In theory, only a sale is valid to determine market value, and one sale alone is not enough data for an accurate determination. However, at this point, all I had was an offer of 50 percent that was turned down. Was that information worth anything in figuring this conundrum, I wondered, as I walked into a meeting with other county appraisers to discuss the matter. As the appraisers wandered in, I felt a slight panic as I envisioned myself in a courtroom with a judge asking me what I based my values on: “a failed offer for half

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the price and some parkland that sold three years ago." In my vision, the judge started laughing along with the attorney for the other side; soon the whole court was in stitches. Finally the attorney for the other side asked, "How long did you say you have been appraising—was it twenty-three years or twenty-three minutes?" The laughter reverberated in my mind as I focused on the meeting.

A Sale is Made

Because there was a lot of undeveloped property on Success Boulevard, I gathered other appraisers to determine the value. The old expression, "if you have two appraisers, you'll have three opinions," certainly held in this case. We discussed the matter for a few minutes. Then one of the appraisers said that there had been a sale on Success Boulevard. At last, I thought. Maybe we can figure this out.

"How much was it for?" I asked.

"Full price, and the listing price was at the top of the market," the appraiser answered.

"Full price, who would pay that when you can't build?" I asked.

"I'm not certain, but I'll give you the details after the meeting," he offered.

If this was true, things were becoming more complicated. There was a consensus with all the people I had spoken with in Florida that a reduction was in order on the properties that they assessed, and it seemed reasonable to me. I wanted to treat this property owner fairly, and there was no question that concurrency had ruined her sale. However, I had to make the reduction for her property, and the rest of the properties on Success Boulevard, based on the available evidence. This sale wasn't going to help.

I cornered my colleague at his desk after the meeting. "Who was the buyer?" I asked again. "Was it a relative?"

"No, but here is the broker's name," he said, passing me the business card.

Quickly I went to my desk and called the broker. We exchanged a few pleasantries, and then I asked about the buyer. "I can't understand why anyone would pay that much for property that they may never be able to develop. Did you disclose the fact that they may not be able to build?" I asked, hoping he wouldn't be offended by such a question.

"Of course I did," he said, "but the answer may lie

with the buyers."

"Why, was it not arm's length?" I asked.

"No, but the buyers are in Saudi Arabia," he explained.

"Saudi Arabia? Are you joking?" I asked.

"No, I mean it," he said.

"Did they look at the property?" I asked.

"I don't know. All I know is they are in Riyadh," he said.

"Can I call them?" I asked.

"Sure, but you better be able to speak Arabic," he said.

Determining that the sale may have been a fluke, I continued the quest for market value. In the end, a reduction was made on the properties on Success Boulevard, and the minimum reduction was based on the additional cost of holding the property and what was most likely to occur. In other words, if a sale would take eight months under normal conditions, an estimate of two years was assigned to the amount of time before the concurrency issue would change, and the expense of the delayed holding period was calculated for a minimum reduction. Although it was not apparent whether the situation would actually change, this holding period served as a beginning point. Other aspects, such as offers for other properties, were considered in determining further reductions. The diminution in value was estimated using a typical present/future value formula for the extended holding period. After finishing the analysis, I realized the deadline to call Mrs. Smith was close at hand.

"Mrs. Smith, I have a value estimate for your property," I said, telling her the new assessed value. "I know the reduction is not as much as you want, but we will review this every year and adjust it accordingly."

"Well, I'm glad you're doing something," she said.

"But I still don't think I can sell it for that amount. Nobody is buying on Success Boulevard."

"Actually there has been one sale," I said.

"Really? I have it listed with a good agent. I wonder how they sold it. Do you know how they marketed the property?" she asked.

"I don't know precisely, but perhaps you could try advertising it in Riyadh," I suggested.

"Riyadh? Where's that?" she asked.

"In Saudi Arabia," I answered.

"Why are you making fun of me?" she said. "This is a serious matter!"