BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTERS OF THE APPEALS OF DAVID H. NIXON from the decisions of the Board of Equalization of Blaine County for tax year 2006.	)))	APPEAL NOS. 06-A-2069, 06-A-2070, 06-A-2071 FINAL DECISION AND ORDER

VACANT LAND APPEALS

THESE MATTERS came on for hearing October 17, 2006, in Hailey, Idaho, before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellant did not appear at the hearing. Assessor Valdi Pace and Tammy Robison appeared for Respondent Blaine County. These appeals are taken from a decisions of the Blaine County Board of Equalization denying the protest of the valuation for taxing purposes of properties described as Parcel Nos. RPK06100030100A, RPK06100030110A and RPK0610003014AA.

The issue on appeal is the market value of a vacant land parcels.

The decisions of the Blaine County Board of Equalization are affirmed.

FINDINGS OF FACT

Parcel No. RPK06100030100A

The assessed land value is $700,000. Appellant requests the land value be reduced to $400,000.

Parcel No. RPK06100030110A

The assessed land value is $700,000. Appellant requests the land value be reduced to $400,000.

Parcel No. RPK0610003014AA

The assessed land value is $1,400,000. Appellant requests the land value be reduced to $800,000.

The subject properties consist of four undeveloped hillside lots in Warm Springs Village

Subdivision in Ketchum, Idaho described as “Lot 10", “Lot 11", “Lot 14", and “Lot 15". Lot 10 is 1.125 acres and is adjacent to Lot 11, which is 1.282 acres. Both are assessed at $700,000. Lot 14 and Lot 15 were combined for assessment purposes and are a total of 1.826 acres assessed for $1,400,000.

Appellant was unable to attend the hearing, but mailed a letter dated October 10, 2006, received October 12, 2006, that outlined the basis for appeal. First, Appellant argued the sales provided by Respondent should not be considered because they involved non-hillside properties.

Secondly, Appellant noted the extensive costs that would be associated with developing the lots and proposed these costs should be deducted from subjects’ assessments. Subjects are located in the “Red Zone”, which is the most dangerous part of an avalanche zone. As such, Appellant claimed there were OSHA regulations to contend with, in addition to special construction requirements associated with building in an avalanche zone. Appellant stated a hillside lot adjacent to subjects was “purchased several years ago at a price of only $185,000...” and because it was also in the Red Zone, the owner “spent in excess of $750,000 on these extraordinary items during construction.”

Both parties noted that bare hillside sales in the area were limited, but Respondent did provide six sales in subject’s general area, two of which were hillside lots. One involved a .90 acre lot that sold in February 2004 for $700,000. It too was in the avalanche zone, though not in the Red Zone. The other was a .19 acre lot located further from subject that sold in December 2004 for $795,000, however, it was not in an avalanche zone. Respondent also noted a 2003 sale located two lots from subjects that sold for $400,000, which was in the same Red Zone as subjects.

The other sales involved flat lots in subject’s general area that occurred in 2004 and 2005.

The lots ranged in size from .20 to .41 acres and sold for between $800,000 and $1,235,000.

Respondent also noted a developed lot adjacent to subjects listed for $1,125,000. The 2006 land assessment was $700,000.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

To assess property for the purpose of taxation, Idaho uses the market value approach as defined in Idaho Code § 63-201(10):

> "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant claimed subjects' values were too high and not supported by sales. It was also contended the "extraordinary costs" associated with developing these hillside lots should be reflected in the assessments.

Respondent provided sales of both hillside and flat lots in the area to defend subjects' assessments.

As noted by both parties, hillside lots in subjects' immediate area were not abundant. Respondent did however, submit two nearby hillside sales. Admittedly the other sales involved flat lots, but adjustments were made to account for differences versus subjects. Respondent also mentioned the $1,125,000 listing price and $700,000 land assessment for an adjacent lot,

which while not necessarily dispositive of subjects' values, does seem to indicate a high perceived value for hillside lots in the area.

Furthermore, it has been held that "[t]he value of property for purposes of taxation determined by an assessor is presumed correct, and the burden of proof is on the taxpayer to show...that the taxpayer is entitled to the relief claimed. Merris v. Ada County, 100 Idaho 59, 64, 593 P.2d 394, 399 (1979); Ada County v. Sears, Roebuck & Co., 74 Idaho 39, 46-47, 256 P.2d 525, 530 (1953).

Both parties acknowledged the unique construction considerations in developing subject lots, however those characteristics are inherent in hillside lots and known by potential buyers. It seems more appropriate to consider construction costs in the value of the improvements, not the land. In fact, Respondent's developed lot sales indicate that building costs are reflected in the value of the finished product.

Appellant provided no evidence to support the requested assessment reduction. By definition property is unique, so finding "truly comparable" sales as advocated by Appellant, is simply not possible. Respondent provided the available sales in the area and made adjustments to account for differences. The Board finds that fair and reasonable methods were employed to assess subjects. As such, the decisions of the Blaine County Board of Equalization are affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Blaine County Board of Equalization concerning the subject parcels be, and the same hereby are, affirmed.

DATED this 6th day of April , 2007.