

BEFORE THE IDAHO BOARD OF TAX APPEALS

JEFFREY KECK,)	
)	
Appellant,)	APPEAL NO. 19-A-1008
)	
v.)	FINAL DECISION
)	AND ORDER
BONNER COUNTY,)	
)	
Respondent.)	
)	
)	
)	

VACANT LAND APPEAL

This appeal is taken from a decision of the Bonner County Board of Equalization denying an appeal of the valuation for taxing purposes on property described by Parcel No. RP004300000200A. The appeal concerns the 2019 tax year.

This matter came on for hearing October 8, 2019 in Sandpoint, Idaho before Board Member Kenneth Nuhn. Appellant Jeffrey Keck was self-represented. Assessor Donna Gow represented Respondent.

Board Members David Kinghorn, Leland Heinrich and Kenneth Nuhn join in issuing this decision.

The issue on appeal concerns the market value of an unimproved residential lot.

The decision of the Bonner County Board of Equalization is modified.

FINDINGS OF FACT

Subject's assessed land value is \$150,000. Appellant contends the correct market value is \$68,000.

The subject property is a vacant .293 acre rural residential lot located in the Sourdough Point subdivision in Sagle, Idaho. Subject is a secondary waterfront lot with filtered views of Lake Pend Oreille. The topography was described as steep and rocky, with limited space available for a building site.

The access to and from subject was characterized as difficult. The lot is located down the hill from the end of Bottle Bay Road, a maintained roadway. Access to subject from the end of Bottle Bay Road is via a steep downhill two-track trail. Though driving into the property is not difficult, Appellant stated a four-wheel drive vehicle is needed to get back up the hill when leaving the property, even in non-winter months.

Appellant purchased subject in May 2018 for \$68,000, however there was some history leading up to the transaction. The prior owner of the lot had fallen behind on dues and other fees owed to the Sourdough Point Owner's Association (SPOA), which led to the pursuit of legal remedies. After several years, the dispute ended in late 2017 when the prior owner agreed to deed title to the property to the SPOA in full settlement of all monies owed. The prior owner owed roughly \$42,000 in unpaid dues, penalties, interest, and legal fees at the time subject was transferred to the SPOA.

After taking title to subject, the SPOA pursued plans to sell the lot. Appellant testified the SPOA was obligated by its governing provisions and general membership vote to obtain market value for the lot. Toward this end, value opinions from two (2) local real estate firms were solicited. One realtor estimated a value of \$49,000, and the other opined a value of \$59,000. The SPOA decided to offer the property for sale to the roughly 108 owners in the subdivision and their family or friends at \$67,500 for a period of six (6) weeks. A listing flyer was sent to all owners announcing the offering. It was explained if the property had not sold during the six (6) week period, the SPOA planned to immediately open the offer to the general public by listing it on the Multiple Listing Service. Prior to the end of the restricted listing period, Appellant submitted the highest bid at \$68,000, which the SPOA accepted. In Appellant's view,

subject's purchase was an arm's-length market value transaction and should form the primary basis for subject's current assessed value.

Respondent contended subject's purchase should not be considered an arm's-length sale, nor considered in subject's market value assessment. It was argued an important aspect of an arm's-length sale is that the property be available for purchase by the general public. Because subject's listing was not listed on the Multiple Listing Service, Respondent concluded it was not a valid market value transaction and should thus be excluded from consideration.

Appellant reported there have been fifteen (15) vacant lot sales in subject's subdivision over the last five (5) years. Of these sales, Appellant was a party in eleven (11). Appellant provided the following information concerning ten (10) lot sales.

Sale No. 1 was a .3 acre lot with a good building site and view of the lake, as well as easy access. The lot sold in December 2013 for \$83,000. Sale No. 2 concerned a .3 acre lot which sold in 2014 for \$89,000. This parcel was described as enjoying a good lake view, but having an awkward and unattractive building site. Appellant questioned whether the parcel is buildable given the county's setback requirements and small building envelope.

Sale No. 3 was a .3 acre parcel which sold in 2015 for \$75,000. This property did not have a view, but did offer a large level building site. Appellant pointed out the larger size and its close proximity to subject. Sales 4, 5, 6 and 7 were actually part of a single transaction in which Appellant purchased all the lots for \$146,500. All four (4) were noted to have level building sites and good access. Sale Nos. 4 and 7 had filtered views of the lake, while Sales 5 and 6 had no lake views. Appellant allocated the sale price equally among the four (4) lots at \$36,000 each.

Sale No. 8 was a .6 acre lot Appellant sold in August 2019 for \$89,900. The property was noted to not enjoy a view of the lake, but did have a level building site and easy access. Sale Nos. 9 and 10 were again part of a single transaction which occurred in August 2019. Sale No. 9 was a .7 acre lot with a filtered view of the lake and described by Appellant to have easy access, privacy, and an “outstanding” building site. Sale No. 10 had no view, but did include easy access, privacy, and level building site. Together these lots sold for \$158,500, so Appellant attributed a price of \$79,250 to each.

Respondent offered information on three (3) sales from the same subdivision in support of subject's valuation for assessment purposes. Sale No. 1 was located higher up the hill from subject, over one-half ($\frac{1}{2}$) mile away by road. Respondent stated the parcel was “a bit larger” than subject but no specific lot size was provided. The property sold for \$136,000, though the date of sale was not shared. Sale No. 2 was a .293 acre lot located in subject's immediate proximity which sold in 2016 for \$153,000. Sale No. 3 was another .293 acre lot in subject's immediate area, however, it was improved with a residence at the time of sale. The property sold in 2016 for \$277,000. Respondent removed the assessed value of the residence, which left a residual price indication for the land of \$173,411. Respondent regarded Sale Nos. 2 and 3 as most comparable to subject due to their closer proximity.

Appellant challenged the comparability of the sales offered by Respondent. Regarding Sale No. 1, it was pointed out the lot enjoyed a full view of the lake with no potential future view obstructions due to the lot being elevated above the lake. A listing flyer depicting the view from this parcel was provided. Appellant further noted the property was double subject's size, had a nice building site, and superior roadway access. Turning to Sale No. 2, Appellant again

provided the listing flyer depicting an expansive elevated view of the lake and the marina. Also, due to the higher elevation of the lot there is no risk the view could be impacted by future development situated down the hill. The lot further included a level building site and excellent access. Sale No. 3 was likewise described as superior to subject in terms of view and access, however, because it was an improved sale, Appellant argued it should not be included in the analysis.

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 in fee simple interest, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all the testimony and documentary evidence, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2019 in this case. Market value is defined in Idaho Code § 63-201, as,

“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.

Market value is estimated according to recognized appraisal methods and techniques. The sales comparison approach, the cost approach, and the income approach represent the three (3) primary methods for estimating the market value of real property. *Merris v. Ada Cnty.*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is commonly valued using the sales comparison approach, which approach in basic terms analyzes sales of similar type

property to estimate the value of the subject property.

Both parties presented multiple sales in support of their respective value positions. While the sales information was appreciated, there were concerns with some of the data. First was the timeliness of some of the reported sales. For example, Appellant's data set included three (3) sales from August 2019. As noted above, the controlling date of valuation in this assessment appeal is January 1, 2019. This necessarily requires a consideration of sales information from prior to the valuation date because sales beyond such date would not be known. For this reason, Appellant's 2019 sales were excluded from the Board's consideration.

The remaining sales data from both parties was several years old, with the most recent reported sale occurring in 2016. Typically, much of this older sales information would be considered stale for purposes of determining current market value. However, because these older sales are the only market value evidence in record, they were used to form the basis of the Board's final decision on value.

In addition to concerns about timeliness of sales data, there were also questions about the comparability of some sale properties with the subject. This was particularly true with respect to the improved sale included in Respondent's data set. Improved sales are not typically used to support land values when vacant land sales are available.

It was also unclear to the Board how view and access factored into Respondent's consideration of subject's market value. The two (2) vacant lot sales referenced by Respondent enjoyed vastly superior elevated views of the lake compared to subject's filtered view at the bottom of the hill. Further, the views from both of those sale lots are in no danger of future obstruction. Subject's view, by contrast, will disappear if the owner of the small parcel situated

between subject and the lake decides to construct a residence. Also, access to Respondent's sale properties was deemed by the Board to be superior to subject's access, and the building sites were level. Indeed, access to the sale lots was via well-maintained roadways, whereas access to subject is a steep two-track off-road trail. With subject's noted deficiencies compared to the sale lots, it was not apparent to the Board how the respective sale prices of \$136,000 and \$153,000 for superior lots supported subject's assessed value of \$150,000.

We turn now to subject's 2018 purchase for \$68,000. Respondent argued the sale should be excluded because the property was not listed on the open market, but rather was offered to a limited group of potential buyers. While we generally agree listing a property for sale to the public is an element of an arm's-length market value transaction, there were factors surrounding this particular transaction which serve to mitigate the potential issues inherent with a limited listing. Most notably were the efforts of the SPOA to obtain market value for the parcel. The SPOA engaged with two (2) local real estate professionals to obtain opinions of market value. The realtors provided value estimates of \$49,000 and \$59,000. Rather than listing subject at either of those prices, the SPOA set the asking price roughly 15% higher, at \$67,500. And Appellant's purchase price of \$68,000 was the highest offer received. That being said, because subject was initially offered to a limited group of potential buyers, we were reluctant to rely too heavily on subject's purchase, though it was included in the Board's consideration.

Admittedly, this appeal presents an interesting appraisal problem. Normally, the recent purchase of the property being valued is strong evidence of its current market value. However, subject's recent purchase through a limited listing left questions unanswered about whether

the price would have been different if the lot was marketed more widely. The remaining sales information in record was somewhat dated and there were serious concerns with comparability between the subject and some of the sale properties. That being said, the older sales represent the only market value evidence available in the record.

As the party bringing forth this appeal, Appellant bears the burden of proving error in subject's valuation by a preponderance of the evidence. Idaho Code § 63-511. After consideration of all the evidence offered, the Board is satisfied subject was over-assessed, though not to the level advocated by Appellant. The sales data suggests a rather wide range of potential value. Based on subject's property characteristics the Board finds subject's market value likely rests in the mid-range indicated by the sales. As such, the Board will reduce subject's value to \$100,000. The decision of the Bonner County Board of Equalization is modified accordingly.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in subject's land value to \$100,000.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides under certain circumstances that the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 7th day of January, 2020.