

BEFORE THE IDAHO BOARD OF TAX APPEALS

NEWPORT PLUMS ESTATE, LLC,)	
)	
Appellant,)	APPEAL NOS. 19-A-1208
)	& 19-A-1209
v.)	
)	FINAL DECISION
BONNER COUNTY,)	AND ORDER
)	
Respondent.)	
)	
)	
)	

RESIDENTIAL PROPERTY APPEALS

These appeals are taken from decisions of the Bonner County Board of Equalization denying appeals of the valuations for taxing purposes on property described by Parcel Nos. RPS049401900A0A and RPS04940190120A. The appeals concern the 2019 tax year.

These matters came on for consolidated hearing on November 14, 2019 in Sandpoint, Idaho before Board Member Kenneth Nuhn. Managing Member Brian Kramer appeared at hearing for Appellant. County Assessor Donna Gow represented Respondent.

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

The issue on appeal concerns the market value of two (2) improved residential parcels.

The assessment decisions of the Bonner County Board of Equalization are reversed.

FINDINGS OF FACT

Appeal No. 19-A-1208 (Parcel No. RPS049401900A0A)

The assessed land value is \$145,050, and the improvements' value is \$2,032,178, totaling \$2,177,228. For the purposes of this decision, this subject will be referred to as the Residence Parcel.

Appeal No. 19-A-1209 (Parcel No. RPS04940190120A)

The assessed land value is \$96,745, and the improvements' value is \$213,081, totaling \$309,826. This subject will be referred to as the Garage Parcel.

Appellant contends the combined value of the two (2) subject properties is \$900,000.

The subject properties are contiguous and located in south Sandpoint, Idaho, with limited views of Lake Pend Oreille, however, they have no lake frontage. The Residence Parcel is a .688 acre lot improved with a multi-level residence constructed in 1990. The five (5) bedroom, five and one-half (5½) bathroom custom home totals 7,261 square feet in size. Appellant reported the residence remains primarily in its original condition, with no major upgrades since its construction. The Garage Parcel is a .137 acre lot improved with a four (4) car garage, which has a 672 square foot loft.

The subject properties' last change of ownership occurred in 2018. Appellant explained some of the history leading up to that purchase. Subjects' prior owner also owned a parcel with dock improvements, as the parcel is situated on the lakefront. In 2017, the three (3) parcels were listed for sale together with an asking price of roughly \$4,000,000. In April 2018, the asking price was reduced to \$1,600,000. Ultimately, the properties sold for a total consideration of \$1,550,000 in November 2018, however, Appellant only purchased the Residence and Garage parcels for \$850,000, while a third party purchased the waterfront parcel for \$700,000.

Appellant explained the subjects were originally listed for sale through a local realtor. However, when the decision was made to reduce the asking price, a third party company was engaged to help with the marketing efforts. The company, called Concierge Auctions, is an international firm that specializes in marketing high-end real estate. In subjects' case, a realtor

was hired to live in the residence for a couple months and to promote the property to other realtors through invitations to visit the property, by hosting parties at the property, and through other promotional activities. Concierge Auctions then set up an "auction date" and began soliciting opening bids from interested parties. According to Appellant, the seller was made aware of the opening offers and had the option of backing out prior to the auction date. It was further reported the seller could have backed out after the auction. To do so, however, the seller would be required to pay a 12% penalty to Concierge Auctions. Ultimately, Appellant's offer of \$850,000 for both subjects was accepted, which, in Appellant's view, represents the best evidence of market value.

Respondent argued subjects' purchase should not be relied upon as a valid indication of market value because it was an auction sale. Respondent characterized this particular auction as an "absolute auction" because there was no minimum bid requirement, and argued the recent sale should be excluded from consideration. It was also questioned whether the auction was well-advertised and whether it was well-attended. Appellant pointed out the auction was advertised globally, which was the purpose behind hiring Concierge Auctions. It was also reported the auction had many bids placed. Appellant acknowledged there was no minimum bid, but stressed the seller had two (2) different opportunities to not execute the sale if the purchase price was unjust.

Appellant also offered into evidence an independent fee appraisal report of the subject properties' market value as of November 8, 2018. As the properties are used for a common residential purpose, the appraisal considered them as a single marketable unit. The appraisal considered four (4) comparable sales from 2018 and two (2) active listings. The appraisal

characterized the subjects as unique in the local marketplace and noted there were limited sales in subjects' price range with similar amenities. As such, the appraisal expanded the geographic scope in the search for comparable sales. This yielded two (2) sales and one (1) listing from Post Falls, Idaho. None of the sales or listings were waterfront properties. The sale residences were generally similar in terms of finished living area, construction quality and functional utility. The sale prices ranged from \$795,000 to \$1,475,000. Each property was directly compared to subjects, and appraisal adjustments were made for differences in the property characteristics such as lot size, square footage, view, condition, garage size and whether the sale properties included an auxiliary dwelling unit or other guest quarters. The adjusted prices ranged from \$852,800 to \$1,265,800. The fee appraisal concluded a market value for the subjects of \$900,000.

Appellant also offered testimony from a local fee appraiser. This appraiser opined on the local market in general, as well as on the sales data included in the above fee appraisal and in Respondent's exhibit material. The local appraiser explained there is a roughly \$3,000,000 price cap on residential properties in the broader Spokane-area market, which includes Sandpoint. This was supported by the sales activity in 2018. In that year, there were twenty-four (24) reported sales between about \$1,000,000 and \$2,500,000, with only three (3) sales in excess of \$2,000,000. Of these sales, sixteen (16) were waterfront properties and five (5) included large acreages. The appraiser remarked that with a combined assessed value of nearly \$2,500,000, subjects would have to represent the top of the market segment. In this appraiser's opinion, however, subjects are not near the top of the market in terms of quality, age, location, amenities, lot size and overall aesthetics.

Respondent explained it had considered all three (3) approaches to value. The income approach was deemed inapplicable because subject is not an income-producing property, and the cost approach was disregarded due to the age of the subject residence. As such, Respondent relied on the sales comparison approach. Information from multiple recent sales was offered in support of the assessments for both subjects.

For the Residence Parcel, Respondent offered limited information¹ concerning three (3) sales. Sale No. 1 was a 4.9 acre lot improved with a 6,639 square foot residence constructed in 2011. The property sold in March 2018 for \$2,100,000. The next sale concerned a 2,746 square foot residence constructed in 2018 situated on a .68 acre lot. This property sold in August 2018 for \$1,725,000. Sale No. 3 was a five (5) acre parcel improved with a 5,428 square foot residence constructed in 2009. This property sold in January 2018 for \$1,475,000. In an attempt to isolate the values attributable to the residences, Respondent removed the assessed land values, as well as other improvement values from the respective sale prices. This left residual value indications for each sale residence. Further adjustments were then made to account for property differences in age, living area square footage and garage size. The result was price indications for the subject residence which ranged from \$1,403,482 to \$1,927,912.

Appellant disputed the comparability of Respondent's selected sale properties. Sale No. 1 was noted to be an elevated parcel with panoramic views of the lake and downtown Sandpoint. It was also pointed out the residence was a unique custom timber-framed home with arched windows and built-in cabinetry. Appellant's local appraiser referred to this

¹ Most property characteristics information for Respondent's sales was found in Appellant's exhibit materials, including Multiple Listing Service data sheets and photographs.

residence as “highly architected” and notably superior to subject in terms of design, quality and modern amenities. Also highlighted was this sale parcel’s five (5) acre size. Sale No. 2 was challenged primarily on the basis it was a waterfront parcel, which should not be used to appraise a non-waterfront property. Sale No. 3, which was also included in Appellant’s fee appraisal report, was noted to enjoy superior lake and city views. Appellant also pointed out this custom residence was constructed in 2009, and the parcel is five (5) acres in size.

Turning to the Garage Parcel, Respondent analyzed two (2) residential sales. The first was a June 2018 sale involving a 2,709 square foot residence constructed in 2005. The property was a 1.15 acre lot with 127 front feet on the lake. The property sold for \$1,375,000. The other sale was a .43 acre lot improved with a 2,001 square foot residence constructed in 2018. This property sold in July 2018 for \$643,000. The sale was noted to include shared access to a fifty (50) foot section of lakefront. Similar to the above methodology, Respondent isolated the values attributable to the sale garages by removing all other assessed values from the respective sale prices. Respondent then made further adjustments for property differences. The result was adjusted price indications of \$284,704 and \$272,720, respectively. Subject’s garage improvement is assessed for \$213,081.

Appellant again challenged the comparability of the sales used. Regarding Sale No. 1, this was noted to be a larger waterfront parcel, whereas the subject is not a waterfront lot. Appellant also highlighted the newer age and larger size of the sale residence. For Respondent’s second sale, Appellant noted it included shared access to the waterfront and a dock. Also, the larger sale residence was constructed in 2018. In Appellant’s opinion, neither of these sales should have been used to estimate the market value of the Garage Parcel.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support determinations of market value in fee simple interest, or as applicable, a property's exempt status. This Board, giving full opportunity for all arguments and having considered all the testimony and documentary evidence submitted by the parties, 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 always estimated as of a precise point in time. Idaho Code § 63-201 provides the following definition,

“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 three (3) primary methods for determining market value include the sales comparison approach, the cost approach, and the income approach. *Merris v. Ada Cnty.*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). The sales comparison approach is commonly used in the valuation of a residential property. In general terms, the approach examines recent sales of similar property and considers adjustments for differences in property characteristics between the subject and the sale properties.

The parties' respective appraisals were developed using the sales comparison approach, however, this is where the similarities end. Appellant's appraisal considered both subjects as a single integrated unit, whereas Respondent considered the value of each parcel on a stand-alone basis. While the Board understands subjects are separate parcels, they were

also developed and used together for a common purpose. Given the small size of the Garage Parcel and how it is fully integrated into the Residence Parcel, the Board finds it is more likely than not the two (2) parcels would be marketed and sold as a single unit. Indeed, that is how Appellant most recently purchased the properties. In the Board's experience, it is sometimes necessary to look beyond a technical separation and focus on how the property is actually used or likely to be used in the future. This notion is reinforced by the statutory requirement that a property's actual and functional use shall be a major consideration when valuing property for assessment purposes. Idaho Code § 63-208. In the Board's view, the fee appraisal's consideration of subjects as a single appraisal unit was the proper starting point.

The Board had other concerns with the sales and analysis offered by Respondent. To begin, we found the method of measuring the dwelling value by removing all other assessed values from the sale price was problematic. The extraction methodology seemed to ignore the reality that improved residential property almost always sells as a single economic unit. This encompasses factors such as location across the property, components of land and improvements. Here, we found Respondent had considered, in effect, waterfront sales to value non-waterfront property. Though in some instances it might be fair to do this, the Board did not find Respondent's waterfront properties to be comparable to the subjects. Merely removing the assessed land value from a sale price was not found to adequately address the location issue or other comparison matters. While location, particularly a lake front location, contributes strongly to the value of the land, it also affects the contributory value of the improvements.

The Board had other concerns with overall comparability to subjects. Most of Respondent's sale lots were notably larger than subject's, and the sale residences were

generally superior in terms of construction quality, design and age. This was particularly true with respect to the two (2) sales used to value the Garage Parcel. Respondent's sales were stand-alone improved single-family residential properties, whereas the subject's improvements was a garage with 672 square feet of living space in the loft. In its current state, the Garage Parcel is notably different than a stand-alone single-family residential property. The dissimilarities in the sales were further evidenced by the gross adjustments applied, which ranged from roughly 32% to 88% for the Residence Parcel. The gross adjustments were even larger for the sales used in the Garage Parcel appraisal (approximately 89% and 119%, respectively). Large adjustments indicate little similarity between a subject and the sales, and further serve to undermine the reliability of the resulting value conclusion. In short, the Board was not persuaded Respondent's analysis was the best indicator of value in this instance.

Better received by the Board was the value evidence provided by Appellant, particularly subjects' 2018 purchase and the fee appraisal report as of November 8, 2018. Though auction sales are often viewed skeptically for purposes of establishing market value for assessment purposes, there is other corroborating evidence to suggest the auction price was at or near market value. In 2017, the subject parcels, along with an additional waterfront lot, were listed for sale at roughly \$4,000,000. The asking price was then reduced to \$1,600,000 in April 2018. Over the next several months, various efforts were made to market the property to realtors and potential buyers, including hiring a realtor to reside on the property for several months to host events and send emails and other marketing materials. Prior to the auction, opening bids were solicited from potential buyers, which bids were shared with the seller. According to Appellant, the seller had the right to pull the properties from the auction block

prior to the date of the auction or, with significant penalty, could decline to execute the sale after the auction. The Board found the auction was well-advertised and fairly well-attended, as demonstrated by the multiple bids tendered. Ultimately, the three (3) parcels sold for a total of \$1,550,000, with Appellant paying \$850,000 for the two (2) subject properties, and a third party paying \$700,000 for the waterfront lot. Admittedly, this was a complicated sale. However, the auction price closely approximated the earlier listing price, which was advertised to the general public for several months. It is difficult for the Board to conclude subjects' recent purchase was significantly distressed or otherwise far below market.

In addition to subjects' purchase information, Appellant's fee appraisal report was found to present strong evidence of current market value. Admittedly, the appraisal relied on sales outside subject's area, however, with subject's unique size and characteristics, there were no recent sales in the immediate neighborhood. In this situation, it is an accepted appraisal practice to expand the geographic scope or time frame when searching for comparable sales, and the fee appraisal did make adjustments for location. In looking at the accompanying photographs and detailed breakdowns of the property characteristics, the sales used in the fee appraisal were found to be comparable to subjects. This commonality was further evidenced by the relatively low gross adjustments of 7.3%, 12.3%, 18.0%, and 37.8% made to the sales. In all, the Board found the fee appraisal's analysis to be sound.

Pursuant to Idaho Code § 63-511, Appellant bears the burden of proving error in subjects' assessments by a preponderance of the evidence. Given the evidence presented in this matter, the Board finds the burden of proof has been satisfied. There were a number of questions surrounding the comparability of the sales used by Respondent and the reliability

of the methodology used. In short, Appellant's value position was found to be better supported and more indicative of the subjects' current market value. As such, the value decisions of the Bonner County Board of Equalization are reversed to reflect total value of \$900,000 for both subject properties.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Bonner County Board of Equalization concerning the subject parcels be, and the same hereby are, REVERSED, as detailed below:

Parcel No. RPS049401900A0A (Appeal No. 19-A-1208)

Land	\$145,050
<u>Improvements</u>	<u>\$576,209</u>
Total	\$721,259

Parcel No. RPS04940190120A (Appeal No. 19-A-1209)

Land	\$96,745
<u>Improvements</u>	<u>\$81,996</u>
Total	\$178,741

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 that under certain circumstances the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 4th day of March, 2020.

IDAHO BOARD OF TAX APPEALS