

BEFORE THE IDAHO BOARD OF TAX APPEALS

DONALD AND DIANE ENGLISH,)	
)	
Appellants,)	APPEAL NO. 19-A-1011
)	
v.)	FINAL DECISION
)	AND ORDER
BONNER COUNTY,)	
)	
Respondent.)	
)	
)	
)	

RESIDENTIAL PROPERTY 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. RPD37670090010A. The appeal concerns the 2019 tax year.

This matter came on for hearing November 14, 2019 in Sandpoint, Idaho before Board Member Kenneth Nuhn. Appellants Donald and Diane English were self-represented. Chief Deputy Assessor Dina Brown 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 unimproved residential property.

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

FINDINGS OF FACT

The assessed land value is \$697,127. Appellants contend the correct value is \$600,000.

The subject property is a .85 acre vacant parcel situated along the banks of the Pend Oreille River in Dover, Idaho.

Appellants purchased the subject lot on March 1, 2019, for \$600,000. Leading up to subject's purchase, Appellants had searched for a parcel to purchase in the general area; however, by the time Appellants were prepared to make an offer, the properties had been

already sold. Appellants' realtor decided to reach out to another local realtor who had previously listed the subject property for sale. The realtor learned the owner was still willing to sell the subject parcel for \$600,000. Appellants did not agree with the asking price, so initially declined to pursue the transaction. After considering available options, Appellants ultimately agreed to the \$600,000 asking price, and the property was acquired. Appellants argued subject's purchase price, which occurred within a couple months of the January 1, 2019 assessment date, was the best evidence of subject's current market value.

Respondent argued subject's purchase price should not be considered in this appeal for a couple reasons. First, the sale occurred roughly three (3) months after the January 1, 2019 assessment date and therefore was untimely for consideration in subject's 2019 assessment. Secondly, Respondent challenged the validity of the sale on the basis that, at the time of sale, the subject property was not listed on the open market. In Respondent's view, subject's purchase was not a "valid" market transaction.

Appellants raised additional issues related to subject's water frontage and a utility easement which runs along the northern property line. Appellants explained there is a twenty (20) foot wide utility access easement in favor of the City of Dover which extends the length of subject's property down to the water. Appellants reported the easement is frequently used by the city to maintain the water intake lines and the pump. Though the water line is buried, there is a large electrical control panel and a separate access hatch to the water pump situated on the easement near the water. The easement was also noted to impact the location of some proposed dock improvements. Instead of building the docks at the edge of the property line as intended, the docks had to be moved outside the zone of the easement. In an effort to create

an additional buffer between the docks and the water intake lines, a permit was issued to construct the docks thirty (30) feet from the northern property line. Appellants contended the diminished utility of the subject parcel due to the easement was not adequately reflected in subject's current assessed value.

Appellants' remaining issue concerned the amount of water frontage the subject lot enjoys. Respondent reported 138.43 front feet; however, Appellants argued the figure referenced by Respondent was actually the frontage along the street, not the river. A plat map of subject's subdivision was provided, showing the 138.43 foot figure representing the measurement along the roadway at the front of the lot. Though somewhat difficult to read due to the small print, the plat indicated 108.11 waterfront feet at the high water mark. Appellants contended subject's frontage measurement should be amended to the 108.11 figure, which in turn would reduce the assessed value.

In terms of value evidence, Respondent offered information concerning two (2) vacant waterfront sales from subject's subdivision. Both sale lots shared the same "very good" land grade with the subject parcel. The first sale was a lot with 100.08 front feet on the water, which sold in September 2018 for \$589,000. The other sale was a lot with 100.18 waterfront feet, which sold in November 2018 for \$606,000. Relying on a frontage measurement of 138.43 waterfront feet for the subject parcel, Respondent adjusted both sale prices to account for the difference in front feet. The result was adjusted prices of \$686,727 and \$703,270, respectively. Based on this, Respondent maintained subject's assessed value of \$697,127 was reasonable.

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 always estimated as of a precise point in time. 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) accepted methods for determining market value. *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 residential property. In general terms, the approach examines recent sales of similar property and considers differences in the property characteristics between the subject and the sale properties.

Both parties provided some recent sales data for the Board's consideration. In this regard, Appellants offered subject's purchase in March 2019 for \$600,000. Though the Board appreciates Appellants' position that subject's purchase is the best evidence of current market value, the fact remains the sale occurred roughly three (3) months after the January 1, 2019 assessment date. It is therefore untimely market data for purposes of establishing subject's

value on the assessment date, which necessarily requires consideration of market data from prior to the date of assessment. As such, the Board did not emphasize subject's purchase in its consideration of the parcel's current market value.

Before discussing Respondent's sales data, the Board will address the issue concerning subject's waterfront measurement. Respondent reported 138.43 front feet, though offered no support for the measurement other than make a general reference to a lake study. It should be noted Respondent's records enjoy a presumption of correctness, so the burden is on the challenging party to prove otherwise. In this case, Appellants offered just such proof in the form of a plat map which included the measurements for all the parcels in the subdivision, including measurements at the high water mark. Respondent likewise measures waterfront at the high water mark. The plat map showed the 138.43 foot figure as the measurement across the front of the lot, not the waterfront. According to the plat, subject's frontage at the high water mark measures 108.11 feet. The correctness of the plat map is further confirmed by the fact the frontage Respondent reported for its two (2) sale lots match exactly the waterfront measurements reflected on the plat map. It is clear to the Board an error occurred with respect to subject's waterfront measurement. Accordingly, the Board will consider subject as having 108.11 front feet on the river, though this measurement does not include any consideration for the twenty (20) foot easement, which is discussed below.

We turn now to Respondent's sales and accompanying analysis, both of which were generally well received by the Board. The two (2) sale lots were located in subject's immediate proximity, and all shared the same land grade, which suggests a level of general comparability in terms of topography and beachfront. One (1) lot sold for \$589,000, and the other sold for

\$606,000. The only adjustment Respondent made was for differences in front foot measurements compared to subject; however, Respondent utilized a frontage measurement of 138.43 feet. This resulted in a roughly \$97,000 adjustment to both sale prices in Respondent's valuation model. However, if subject is evaluated as having 108.11 front feet, which more closely approximates the frontages of the sale lots, then large frontage adjustments are not needed. The frontage error alone supports a reduction in subject's assessed value.

In addition to the waterfront measurement issue, it was apparent to the Board little consideration was given to the twenty (20) foot utility access easement, which Appellants and Appellants' witness testified was used often for maintenance purposes. Respondent's appraiser contended the easement was not a hindrance and further testified he had never observed a vehicle on the easement. Whether the easement is frequently used is not the relevant consideration. Rather, it is the diminished utility of the subject parcel caused by the easement and the potential impact on market value. Appellants cannot build anything on the easement, nor can that portion of the subject lot be put to any other use. In addition, the easement required special placement of some proposed dock improvements so as not to impede or otherwise interfere with the water intake station. In other words, twenty (20) feet of shoreline is also restricted by the easement, which in effect reduces the amount of usable frontage to 98.11 front feet. It is apparent the easement has a real impact on the use of the subject property, and, in the Board's view, this factor was not adequately considered in the assessed value.

Pursuant to Idaho Code § 63-511, Appellants bear the burden of proving error in

subject's assessed value by a preponderance of the evidence. The Board found the burden of proof satisfied in this instance. The evidence demonstrated an error in subject's waterfront measurement, which alone is sufficient cause to adjust the assessed value. In addition, the Board found inadequate consideration was given to the easement running the length of the subject property and the resulting limited utility and usable waterfront. For these reasons, the Board found ample support for a reduction in value. The decision of the Bonner County Board of Equalization is modified to reflect a decrease in subject's land value to \$590,000.

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 assessed land value to \$590,000.

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 Appellants.

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 13th day of April, 2020.