

BEFORE THE IDAHO BOARD OF TAX APPEALS

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| JOHN AND DIANN KOHLER, |) | |
| |) | |
| Appellants, |) | APPEAL NO. 21-A-1046 |
| |) | |
| 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 modifying an appeal of the valuation for taxing purposes on property described by Parcel No. RP0004400A0270A. The appeal concerns the 2021 tax year.

This matter came on for telephonic hearing November 9, 2021, before Board Member Kenneth Nuhn. Appellants John and DiAnn Kohler were self-represented. Bonner County Appraiser Rachel Castor 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 an improved residential property.

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

FINDINGS OF FACT

The assessed land value is \$635,855, and the improvements' value is \$427,262, totaling \$1,063,117. Appellant contends the correct land value is \$293,023, and the correct improvements' value is \$427,262, totaling is \$720,285.

The subject property is a .29 acre residential parcel situated in the gated Cape Horn Estates subdivision located a couple miles east of Bayview, Idaho, next to the

boundary with neighboring Kootenai County. The subject parcel includes 177 feet of waterfront on the southwestern shores of Lake Pend Oreille, though due to the extreme slope and rocky composition of the ground, the shoreline is not accessible. The property is improved with a 2,632 square foot multi-level residence constructed in 2011. The residence is a highly engineered cantilever structure perched atop a rock projection roughly 140 feet above the lake. This unique design required a fourteen (14) foot bridge to be installed to provide access to the residence from the small parking area. Due to the slope of the remaining land, estimated at 54.5 degrees, Appellants testified no other structures could reasonably be constructed on the parcel.

Appellants detailed some of the history leading to this appeal. Upon receiving the 2021 assessment notice for the subject property, Appellants noticed the land value had increased roughly 150% over the prior year's valuation, from \$387,613 to \$971,238. Appellants learned the increased land value was caused by the sale of an improved waterfront parcel from subject's subdivision, Lot 9A, for \$1,100,000. It was explained Respondent developed a waterfront valuation model for the neighborhood using this single sale, which resulted in sharp increases in waterfront land values, with some land values tripling over the prior year.

Appellants were not only concerned with Respondent's reliance on a single data point to develop a valuation model, but also with how Respondent allocated the purchase price of Lot 9A between the land and improvements. Appellants reported the Lot 9A property had been extensively updated prior to its October 2020 sale. Some of the updating work included replacement of the roof and the addition of skylights, addition of new exterior siding and insulation, relocation and updating of the kitchen with custom

cabinets and high-end appliances, replacement of doors and windows, installation of new plumbing and light fixtures, updating of bathrooms and bedrooms, and replacement of the septic tank and pump. The prior owner also rebuilt the upper deck and replaced the decking on both decks, the stairs down to the lake, and the dock with composite decking material. Lastly, the prior owner had constructed a detached three (3) car air-conditioned garage with approximately 1,000 square feet of shop space in the loft. According to Appellants, the 2021 valuation of the improvements on Lot 9A was roughly \$410,000, with no changes made to the ages or condition ratings of any of the improvements other than the residence, which changed in effective year built to 2005 and from “fair” to “average” in condition rating. In Appellants’ view, the improvements on Lot 9A were notably undervalued, which left an inflated residual value for the land.

Disagreeing with subject’s land value, Appellants filed an appeal with the Bonner County Board of Equalization (BOE), as did other waterfront owners from the subdivision. During the BOE process, Appellants and other owners reported some additional sales information of which Respondent was previously unaware. Specifically, one (1) vacant lot sale from subject’s subdivision was offered, as well as a handful of improved and vacant sales located less than two (2) miles away across the county line in Kootenai County. Ultimately, the BOE concluded waterfront land values in the subdivision needed to be reduced. A blanket 25% downward adjustment was applied to waterfront land values throughout the neighborhood, plus an additional 10% reduction for those parcels with special conditions such as no lake access. The subject property received both adjustments due to its waterfront access issues. While the adjustment was appreciated,

Appellants contended it was arbitrary and wholly insufficient to achieve an accurate estimate of subject's current market value.

Appellants also raised a concern related to subject's land valuation. It was explained subject's waterfront access issues had been previously acknowledged in prior assessments. Since at least 2016, a downward 20% adjustment¹ was applied to subject's land value for the slope; however, the adjustment was removed for 2019. The notes in subject's property record indicated the adjustment was removed because an adjacent property owner had built stairs down to the lake. Appellants explained that not only do they not have any right to utilize the neighbor's stairs, but the residence on the adjacent parcel is situated only approximately 70 feet above the water, so it was not as difficult a proposition to install stairs on that parcel as trying to do something similar on the subject property, which is 140 feet above the lake. An adjacent property owner whose residence is likewise perched high above the lake with no access to the water received a bid of \$79,800 to engineer a series of landings and stairs down to the water, and Appellants secured a bid of \$143,000 to install a two (2) person cable tram system. As subject does not have lake access, and the cost to create such access is prohibitively expensive, Appellants argued subject's land value should be less than that of other parcels in the subdivision with access to the lake. In sum, Appellants contended subject's assessed land value should be 15% higher than the 2020 valuation, plus an additional 35% downward adjustment for steepness, which equates to an assessed value of \$293,023.

Though it was subject's assessed land value which initiated this appeal, the core issue shifted to the assessed value of the residence at the hearing in this matter, because

¹ The adjacent parcel with similar waterfront access issues received a 35% topography adjustment.

Respondent changed its position with respect to land values in the neighborhood since the BOE hearing. As discussed in more detail below, Respondent contended waterfront land values in the subdivision should revert to 2020 valuations and all improvement values should be increased by 75%. Appellants disagreed improvement values should be increased as proposed by Respondent. In this regard, Appellants focused on the 2020 construction of a residence in subject's immediate proximity. After repeated discussions with, and inspections by, the assessor's office, the property owner and Respondent agreed on a value of approximately \$500,000 for the newly constructed residence, which was reflected on the 2021 assessment notice. In light of Respondent's proposal to increase improvement values by 75%, Appellants questioned how Respondent's valuation of the newly constructed residence, carefully developed using the cost approach near the January 1, 2021, assessment date, could be "off the mark" by 75%. In Appellants' view, Respondent was trying to force values to fit the \$1,100,000 purchase of Lot 9A, even though the sale was regarded by Appellants as an outlier and not an accurate indication of values in the neighborhood. Appellants argued the value of subject's residence should remain at \$427,262 as originally assessed for 2021, which represents an increase of approximately 8% over the 2020 valuation.

Appellants additionally referenced some recent sales data from the area. Specifically, information on three (3) vacant waterfront sales was provided, as well as details concerning seven (7) improved waterfront properties which sold during 2019 and 2020. Appellants did not highlight any specific sale properties, nor offer any direct comparisons with subject, but contended the sales data did not support the new valuation proposed by Respondent.

Respondent explained its original waterfront valuation model for subject's subdivision was based on the single sale of Lot 9A, because that was the only waterfront sale from the neighborhood reported to the assessor's office since 2016. It was not until the BOE appeal process Respondent learned of the additional sales information brought forth by the various property owners. After analyzing the new sales data, Respondent agreed its original valuation model was flawed. While Respondent concluded values needed to be increased in the subdivision, it was argued the increase should apply to residential improvements, not the land. Therefore, Respondent proposed 2020 land values be reinstated throughout the neighborhood and improvement values be increased by 75%. For subject, the request was to reduce the assessed land value to \$387,613 and increase the value of the improvements to \$747,709 for a total value of \$1,135,322, representing an increase of roughly \$72,000 over the total assessed value determined by the BOE.

In support of its new value position, Respondent offered two (2) separate sales analyses: one (1) for subject's land value and one (1) in support of the total valuation. The land value sales model consisted of three (3) vacant waterfront sales from 2020. Sale No. 1 concerned a parcel in subject's subdivision with 66.23 front feet on the lake which sold in January for \$200,000, or \$3,020 per front foot. Sale No. 2 involved two (2) adjacent lots in Kootenai County purchased together with a combined shoreline measurement of 137 feet and an August purchase price of \$227,500, or \$1,661 per front foot. Lastly, Sale No. 3, also located in Kootenai County, concerned a parcel with 100 waterfront feet and an October sale price of \$310,000, or \$2,627 per front foot. Respondent adjusted the respective sale prices for differences in shoreline measurement compared to subject and

concluded adjusted price rates of \$2,170, \$1,587, and \$2,369 per front foot, respectively. Respondent proposed subject's land value be reduced to \$374,613, or \$2,824 per front foot.

Respondent's second valuation model, aimed at subject's total market value, likewise included three (3) sales which transpired during 2020. The first sale, located in Kootenai County, involved a recently remodeled 3,177 square foot residence attached to a lakefront parcel with 100 front feet of shoreline. This property sold in June 2020 for \$995,000. The next sale property was the \$1,100,000 sale of Lot 9A from subject's subdivision in October 2020. The final sale property concerned a lot with 100 waterfront feet improved with a 2,052 square foot recently updated residence. This Kootenai County property sold in August 2020 for \$995,000. Each sale property was directly compared to subject, and adjustments were made for differences in construction quality, effective age, condition, gross living area, garage size, shoreline length, and other improvements. The analysis yielded adjusted prices ranging from \$836,211 to \$1,310,711. Respondent's proposed total assessment for the subject property is \$1,135,322.

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, 2021, 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 comprise the three (3) primary approaches for determining market value. *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 in basic terms compares recent arm’s-length sales of similar property to the subject property and makes adjustments for key differences in property characteristics.

Both parties provided recent sales information and analyses for the Board’s consideration, which efforts were appreciated. Looking first at the three (3) vacant lot sales, with adjusted price rates ranging from \$2,051 to \$2,369 per front foot, it is apparent subject’s current land value of \$635,855, or \$3,592 per front foot, is excessive by comparison. Respondent proposed reducing subject’s land value to \$374,613, or \$2,824 per front foot. In the Board’s view, given the range of value indicated by the sales, Respondent’s recommended land value is still too high. And it is even higher when consideration is given for subject’s atypically large shoreline measurement and the fact subject’s residence sits on a rock outcropping 140 feet above the lake with no access to the water. Neither of these conditions were considered in Respondent’s proposed valuation, which was a cause for concern from the Board’s perspective.

Respondent described the average shoreline measurement in subject’s subdivision as 80 front feet. If 80 front feet is the typical length, then subject’s 177 front

foot measurement is an outlier by any statistical measure, and therefore does not fit within the parameters of Respondent's modeling, which does not appear to give consideration for excess frontage. Economies of scale naturally suggests subject's large frontage would carry less value per front foot than a parcel with similar waterfront but less frontage. At the very least, subject's land value should not be roughly \$500 more per front foot than the highest adjusted sale price in the data set, which was for a lot with 100 front feet of accessible shoreline. There was only one (1) sale in the record involving a shoreline measurement in excess of 100 front feet, that being the two (2) lots from Kootenai County which sold together with a combined shoreline of 137 front feet. These lots sold for \$227,500, with an adjusted sale price of \$280,944, or roughly \$1,587 per front foot. As subject has more water frontage than any of the sale properties, the Board found good cause to reduce subject's land value rate to \$1,500 per front foot.

In addition to an adjustment for excess frontage, the Board finds a further adjustment is warranted for subject's lack of water access due to the steep rocky slope of the lot. The BOE applied a 10% reduction for subject's access issue, but how that figure was determined was unclear and otherwise unsupported. Historically, Respondent recognized the negative impact on subject's market value so applied a downward 20% adjustment, and a 35% adjustment to the adjacent parcel similarly impacted by the steep slope, until 2019 when the adjustments on both properties were removed. Respondent did not offer an explanation for removing the adjustments, but reference was made in the notes on subject's property record to a staircase constructed on a neighboring parcel. In any event, stairs on a neighboring parcel have no bearing on subject's market value. The subject property has no stairway or other access down to the waterfront, which is an

undoubtedly negative condition in a waterfront neighborhood where access to the water typically commands a premium in the marketplace. Appellants explored options for engineering access to the lakefront, but with an estimated cost of roughly \$80,000 for stairs or \$143,000 for a cable tram system, Appellants found the costs too prohibitive. That access *could* be developed is not the proper consideration in this case, because subject must be assessed as it currently exists, which is basically a spectacular view lot sitting high above the lake with no access to the water. Without support for a better adjustment, the Board will reinstate the 20% topography/access adjustment historically applied to subject's land value, resulting in an assessed land value of \$212,400, to which \$13,000 will be added for subject's onsite improvements.

Turning next to subject's total assessment, subject's residence is undoubtedly a uniquely designed and engineered structure of high quality. It is also sizeable, with 2,632 square feet of gross living area. That being said, it has not been updated since its construction in 2011, whereas all three (3) sale residences included in Respondent's analysis had all been thoroughly renovated prior to sale. Also, each sale property included a variety of improvements in addition to the residence, with two (2) of the properties having additional improvements with assessed values in excess of \$120,000. Furthermore, none of the sale properties were noted to lack access to the water, which again is generally considered a key attribute in a waterfront community. The subject property does not have any additional improvements, nor does it have access to the desirable lake amenity like the sale properties. Stated simply, subject is inferior to the sale properties on multiple fronts so should not be valued similarly.

Another concern was the comingling of Kootenai County's assessment data with Respondent's. For example, Respondent did not calculate land values for the two (2) Kootenai County sales using its revised valuation model, but rather used Kootenai County land values. This stood out in the analysis, because the Kootenai County land values were nearly double the land value Respondent calculated for the Lot 9A property located in subject's subdivision. The same was true for the quality and condition ratings of the sale residences, as well as the effective ages: all were determined by Kootenai County. Also curious to the Board was the adjusted sale price conclusions of the two (2) Kootenai County properties. Both had nearly identical land values and both sold for the same \$995,000 sale price. The residence situated on Sale No. 1 was superior to the residence on the other parcel in terms of construction quality, condition, and age. It was also larger by approximately 1,100 square feet and included roughly \$100,000 more in other improvements, yet the adjusted sale prices reported by Respondent were \$836,211 for Sale No. 1 and \$1,181,262 for the other inferior property. This result is illogical, and when combined with other questions concerning the comparability of the sale properties with the subject property, as well as other aspects of the analysis, the Board was not confident in the values proposed by Respondent. As such, the Board will not alter the current valuation of subject's improvements.

Pursuant to Idaho Code § 63-511, the burden of proving error in subject's assessed value by a preponderance of the evidence lies with Appellants. Given the record in this matter, the Board finds the burden of proof satisfied. Inadequate consideration was given to subject's unique physical attributes, particularly compared to the sale properties, none of which lacked access to the lake. Based on the totality of the evidence, the Board

will reduce subject's total assessed valuation to \$652,662. 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 total valuation to \$652,662, with \$225,400 (includes \$13,000 for onsite improvements) attributable to the land and \$427,262 to the improvements.

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 4th day of April, 2022.