

BEFORE THE IDAHO BOARD OF TAX APPEALS

BRET AND CHERYL CANNON,)	
)	
Appellants,)	APPEAL NO. 22-A-1030
)	
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 the valuation for taxing purposes on property described by Parcel No. RP0004400A012AA. The appeal concerns the 2022 tax year.

This matter came on for hearing September 21, 2022, in Sandpoint, Idaho, before Hearing Officer Travis VanLith. Appellants Bret and Cheryl Cannon were self-represented. Bonner County Assessor Donna Gow represented Respondent.

Board Members Leland Heinrich 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 reversed.

FINDINGS OF FACT

The assessed land value is \$381,118, and the improvements' value is \$513,058, totaling \$894,176. Appellants do not dispute the land value, however, contend the correct value of the improvements is \$224,681, for a total value of \$605,779.

The subject property is a .718 acre waterfront parcel with 180 feet of shoreline on the southwestern side of Lake Pend Oreille. The property is located in the Cape Horn

Estates subdivision on the border with Kootenai County near Bayview, Idaho. The subject property was originally two (2) adjacent, steeply sloped lots which were combined some years ago into a single parcel. The property is improved with a 1,612 square foot multi-level residence constructed in 2000. The residence sits atop a granite outcropping high above the lake's highwater mark. A series of stairs provides access to the water and the swimming dock, though water depth at the shoreline is too shallow to dock a boat.

Appellants first recounted the events leading to this appeal. For the 2021 assessment year, subject's land value tripled from the prior year, as did all waterfront land values in the subdivision. In response, many waterfront owners appealed the valuations to the Bonner County Board of Equalization (BOE). In subject's case, the BOE resolved to reduce the land value by 25%, down to roughly \$735,000. Appellants disagreed with the BOE's decision so appealed to this Board (BTA), which further reduced subject's land value to approximately \$405,000.

For the current 2022 assessment year, the assessor's office applied a trend factor to the subdivision, increasing improvement values by 75%. Appellants appealed the valuation to the BOE, which decided to further increase the value of subject's improvements to nearly \$515,000, representing an approximate 205% increase over the value ordered by the BTA last year. Appellants again appealed to this Board, arguing the BOE's decision to increase the value of subject's improvements violated Idaho Code § 63-3813, which prohibits a value ordered by the BTA to be increased the subsequent assessment year except under certain specific circumstances. Appellants acknowledged the 75% trend factor the assessor's office applied to the subdivision was likely allowable under the statute, but contended the BOE abandoned the trend and violated Idaho Code

§ 63-3813 with its decision to further increase the value of subject's improvements above the 75% neighborhood trend factor.

Appellants additionally questioned the accuracy of the 75% trend factor itself and Respondent's model for developing the factor. Of chief concern was the minimal number of available sales from the neighborhood. According to Appellants' research, there have been forty-two (42) waterfront sales in the subdivision over the past thirty-two (32) years, or an average of 1.3 sales per year. The data revealed 2007 was the last year in which there were more than two (2) waterfront sales, and since 2017 there have been a total of only four (4) sales in the subdivision. With so few data points, Appellants argued the model used to develop the 75% trend factor was unreliable from a statistical testing perspective.

Instead, Appellants regarded the Bayview valuation model developed by neighboring Kootenai County as more credible because it was derived from a total of nine (9) recent waterfront sales: four (4) from 2021, four (4) from 2020, and one (1) from 2019. The model resulted in a 35% increase in the values of waterfront dwellings in the Bayview area and a roughly 73% increase in total valuation.

Appellants offered two (2) value calculations based on elements of the Kootenai County model as potential estimates of subject's current market value. The first increased the land value ordered by the BTA by 100%, which calculated to \$770,680. The second value estimate was calculated by directly applying Kootenai County's land value model to subject's 180 front feet. The first 100 feet of subject's shoreline calculated to a value of \$717,400, and using a rate of \$1,602 per front foot for the remaining 80 feet yielded an estimated total land value of \$846,201.

With respect to subject's improvements, Appellants likewise identified areas of disagreement with Respondent's valuation model. Of particular concern was the Local Cost Modifier (LCM) applied to subject's neighborhood. It was explained Respondent determines improvement values using cost tables from 2006, which are updated or indexed annually based on an analysis of local sales data to reflect current market levels. Respondent applied an LCM factor of 240 to subject's neighborhood, which Appellants emphasized was inconsistent with the 170 factor reported in the Price Index of New Single-Family Houses Under Construction report published annually by the U.S. Census Bureau.

Using rates from the U.S. Census table, Appellants offered three (3) different value estimates for subject's improvements. Each value estimate was calculated by applying the appropriate adjustment factor to subject's historical improvement values from 2005, 2006, and 2007. This analysis yielded value estimates of roughly \$159,000, \$179,000, and \$217,000, respectively.

Appellants continued with two (2) additional value estimates for subject's improvements derived from Kootenai County assessment data. The first value estimate of \$224,681 was calculated by applying a 35% increase to the dwelling value ordered by the BTA last year, with no increase to the \$7,014 value of the dock improvement. The second estimate was based on the assessed value of a Bayview dwelling in Kootenai County regarded by Appellants as highly similar to subject's residence. After adjusting for age and the dock, Appellants calculated a value of \$232,205 for subject's improvements.

In reconciling the various value indicators for subject's land and improvements, Appellants settled on two (2) estimates of the property's total value. One proposed

methodology applied Kootenai County's model to the values ordered by the BTA for 2021, and the other methodology applied the Kootenai County model directly to the subject property. The first yielded a land value of \$770,680, and a value of \$224,681 for subject's improvements, or a total value of \$995,371. The second value estimate of \$1,078,406 assigned \$846,201 to subject's land and \$232,205 to the improvements. In Appellants' view, both value indicators were more accurate than the valuation concluded by Respondent, particularly with respect to the allocation of value between the land and the improvements.

Respondent explained its analysis of 2020 and 2021 sales from the Bayview area, both in Bonner County and Kootenai County, indicated assessed values in subject's subdivision needed to be increased to reach market levels. Specifically, Respondent determined residential improvement values were too low so applied a 75% upward trend factor throughout the neighborhood. Respondent agreed Idaho Code § 63-3813 generally does not allow a value ordered by the BTA to be increased in the subsequent assessment year; however, in this instance, the increase in subject's improvements' valuation resulted from the 75% trend factor applied across the subdivision, which Respondent maintained was permissible under the statute.

In more direct support of subject's current valuation, Respondent provided a comparative analysis of four (4) sales from the area. Two (2) of the sales transpired during 2021, one (1) occurred in 2020, and the remaining property closed in August 2022. The sale residences, constructed from 1985 to 2005, ranged in gross living area from 1,452 to 3,678 square feet. Shoreline measurements for the sale properties ranged from 57 to 146 front feet. Respondent reported sale prices from \$790,000 to \$1,200,000. Each sale

property was compared to subject, with adjustments made to the respective sale prices for differences in property characteristics, including time adjustments to the 2020 and 2022 sale prices. The sales analysis yielded adjusted prices ranging from roughly \$895,000 to \$1,175,000. Respondent argued subject's current assessed value of \$894,176 was reasonable given the range of value indicated by the adjusted sale prices.

Respondent also acknowledged some weaknesses in its valuation model, particularly the limited number of sales. Respondent agreed more data points would strengthen the analysis, however stressed sales in the Bayview area are limited in number each year, with even fewer of those sales being actually reported to the assessor's office. Additionally, Respondent is not privy to recent sales activity from Kootenai County, which further limits the data pool. Despite these limitations, Respondent maintained assessed values must be determined each year using the best information available and testified the same occurred this assessment year.

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, 2022, 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 three (3) primary approaches 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 differences in property characteristics between subject and the sale properties.

The two (2) core issues presented in this appeal are: 1) whether the increase in the assessed value of subject's improvements above the value ordered by the BTA in 2021 violated Idaho Code § 63-3813, and 2) whether the 75% trend factor applied to subject's subdivision was an accurate measure of the market activity over the prior year.

Starting with the first issue, Idaho Code § 63-3813 reads in relevant part,

In all cases which are not appealed to the district court within the prescribed time, the decision of the board of tax appeals shall be conclusive and all records shall be corrected to comply with the decision of the board. A final decision or order of the board of tax appeals directing a market value change for taxable property that is not further appealed shall be fixed for the current year appealed and there shall be no increase in value for the subsequent assessment year when no physical change occurs to the property; provided however, that annual trending or equalization applied to all properties of a property class or category within the county or a clearly defined area shall still apply.

The first key element is the statute applies only to those BTA decisions which are not further appealed to the district court. The statute next instructs that a final decision of the BTA shall be fixed for the current assessment year and the subsequent year unless a physical change occurs to the property, or if the increase is the result of annual trending

or equalization applied to all properties of a property class within the county or clearly defined area.

In the case at bar, the BTA's decision reducing subject's 2021 valuation was not appealed to the district court, so Idaho Code § 63-3813 is applicable. Regarding the initial increase in the value of subject's improvements, the record is clear the increase was the direct result of a 75% trend factor applied to all residential improvements throughout subject's subdivision. As the trend was implemented consistently with the provisions of the controlling statute, the Board finds no issue with the initial 75% increase in the valuation of subject's improvements.

The same conclusion, however, could not be reached with respect to the BOE's subsequent decision to further increase the value of subject's improvements above the 75% level. While Idaho Code § 63-3813 does allow a BTA value to be changed through an equalization action, such equalization must be ". . . applied to all properties of a property class or category within the county or a clearly defined area." (emphasis added). The BOE's decision to increase the value of subject's improvements was not a broadly applicable equalization action as contemplated by the statute but was instead a decision narrowly targeted at the subject property¹, which the statute does not allow. As such, the value increase ordered by the BOE for the subject property must be overturned.

The second substantive issue raised by Appellants concerned the reliability and accuracy of Respondent's 75% trend factor. The primary critique centered on the limited number of sales used to develop the trend factor. Appellants offered a handful of various

¹ The BOE also increased improvement values on two (2) other properties in the subdivision, but at different respective rates, which further weakens the equalization argument.

value estimates produced through several hybrid valuation models. While Appellant's efforts were appreciated, the Board was not convinced the models produced more reliable results, as they utilized a mixture of assessment data, sales information, and values ordered in the BTA's 2021 decision. None of these hodge-podge methodologies adhered to accepted standards of appraisal practice, and none were consistent with the three (3) recognized methods for estimating the market value of real property as outlined earlier.

As the Idaho Supreme Court has articulated,

[T]he question is not what someone else, however eminent he may be in the field of appraisal work and knowledge of market values, may think is the proper method, but involves simply the determination as to whether the method used by the assessor was legitimate and fair, and was a reasonable method to use in arriving at the value of the property in question.

Abbot v. State Tax Comm'n, 88 Idaho 200, 206, 398 P.2d 221, 224 (1965).

The Board agrees Respondent's valuation model would have likely benefited from more data points; however, there were no additional sales to include in the analysis. The limited data pool is not the fault of Respondent, but rather the reality of subject's unique and relatively small and isolated neighborhood. Respondent is tasked with determining values each assessment year using recognized methods of valuation based on the best available information, which is precisely what occurred in this case. Idaho Code § 63-208; IDAPA 35.01.03.217.02. Under the circumstances, the Board was strained to find fault in the methodology Respondent employed to develop the trend factor applied to the neighborhood.

Interestingly, Appellants' several value estimates were reasonably similar to the value conclusion reached by Respondent, which suggests the parties are in agreement with respect to the subject property's current total market value but simply differ how such

value should be allocated between the land and improvements. Though the Board understands Appellants' concerns with subject's value allocation, the ultimate question in an *ad valorem* appeal is whether the property's total assessed value is at market level. Property taxes are based on total assessed value, not the values of the individual components reflected on the assessment notice. So, while Appellants would prefer a different allocation, the Board did not find good cause to disrupt the current land-to-building ratio in this instance, where the overall value was well-supported by Respondent's comparative sales analysis.

Pursuant to Idaho Code § 63-511, Appellants bear the burden of proving error in subject's valuation by a preponderance of the evidence. As the BOE's decision was not an equalization action "applied to all properties of a property class or category within the county or a clearly defined area" in contravention of the controlling statute, the Board finds the burden of proof satisfied. The decision of the Bonner County Board of Equalization is reversed.

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, REVERSED, reducing the total valuation to \$674,878, with \$381,118 attributable to the land and \$293,760 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 17th day of January, 2023.