

BEFORE THE IDAHO BOARD OF TAX APPEALS

JOHN AND DIANN KOHLER,)	
)	
Appellants,)	APPEAL NO. 22-A-1017
)	
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. RP0004400A0270A. The appeal concerns the 2022 tax year.

This matter came on for telephonic (zoom) hearing November 2, 2022, before Hearing Officer Travis VanLith. Appellants John and DiAnn Kohler were self-represented. Bonner County Chief Deputy Assessor Dina Brown represented Respondent.

Board Members Leland Heinrich, Kenneth Nuhn, and Doug Wallis 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 \$225,400, and the improvements' value is \$958,494, totaling \$1,183,894. Appellants agree with the land value, however, contend the correct value of the improvements is \$576,804, for a total value of \$802,204.

The subject property is a .29 acre residential parcel located in the Cape Horn Estates subdivision in the southwestern corner of Bonner County a couple miles east of

Bayview, Idaho. The subject parcel is a steeply sloped waterfront lot with 177 feet of shoreline on the southwestern side of Lake Pend Oreille. The waterfront, however, is not accessible due to the estimated 54.5 degree slope of the lot and rocky shoreline. The property is improved with a highly engineered cantilevered 2,632 square foot residence constructed in 2011 and perched on a granite outcropping roughly 140 feet above the lake. According to Appellants, no further improvements can be added to the property on account of the extreme slope.

Appellants first recounted the recent assessment history of the subject property. In 2020, the total assessed value was \$783,688. For the 2021 assessment year, waterfront land values throughout the subdivision nearly tripled, resulting in a total valuation of \$1,398,500 for the subject property. Following appeals by owners in the subdivision, the Bonner County Board of Equalization (BOE) reduced land values by 25% for all waterfront parcels in the development. The subject property received an additional 10% downward adjustment for the lack of lake access. This Board (BTA) reduced the total valuation further, to \$652,662, which included a 20% adjustment to the land value for no water access.

For the current 2022 assessment year, the assessor's office trended improvement values throughout the subdivision upward by 75%, which increased subject's total valuation to \$958,600. Appellants again appealed to the BOE, which ultimately resolved to further increase the value of the improvements by an additional \$225,294, a roughly 30% increase over the original 2022 valuation. The current total assessed value is \$1,183,894, with \$225,400 allocated to the land as ordered by the BTA in 2021, and

\$958,494 to the improvements, representing a nearly 125% increase over the BTA's ordered value.

Appellants argued the BOE's decision to increase the value of subject's improvements above the 75% trend factor applied to the subdivision violated Idaho Code § 63-3813, which generally prohibits a value ordered by the BTA from being increased the subsequent assessment year unless a physical change occurs to the property or the increase is the result of annual trending or equalization applied across a particular class of properties or a defined geographical area. In Appellants' view, the BOE abandoned the 75% neighborhood trend by increasing¹ the value of subject's improvements above the trend.

Appellants additionally challenged the accuracy of the 75% trend factor itself, arguing the figure was unsupported by recent sales from the neighborhood. Appellants shared Kootenai County, which borders subject's subdivision, increased improvement values in the Bayview area by 35% for 2022. Appellants stated the Kootenai County trend factor was developed through analysis of recent sales in the area and contended it was better supported than the 75% factor used in subject's subdivision and therefore the more reasonable and appropriate trend rate.

Lastly, Appellants were concerned about subject's land influence adjustment for the steep topography and lack of waterfront access. Appellants highlighted a note on subject's property record sheet (ProVal) indicating the BTA-ordered land value of \$225,400 would be removed for 2023. Appellants questioned whether any topography adjustment would be applied in future years. The BOE applied a 10% downward

¹ Reportedly, the BOE increased improvement values on only three (3) properties, while leaving improvement values the same for the rest of the Cape Horn Estates properties appealed for 2022.

adjustment for the lack of access to the water, while the BTA concluded a 20% adjustment for no waterfront access and generally steep topography. As the BOE and the BTA both made special topography adjustments in their respective 2021 decisions, Appellants reasoned subject's future land assessments should likewise include a waterfront access and topography adjustment.

Respondent agreed Idaho Code § 63-3813 restricts when and how a value ordered by the BTA can be increased the subsequent assessment year and maintained the increases to subject's valuation fell within the allowable parameters of the statute. Respondent stressed the 75% trend applied to the value of subject's improvements was an annual market trend applied across subject's subdivision and argued it was therefore permissible. In similar fashion, it was argued the BOE's decision to further increase the valuation of subject's improvements above the 75% trend factor was not violative of the statute because it was an equalization action.

Respondent further explained the 75% trend factor itself was determined through a study of sales information from subject's subdivision the prior several years, as well as Bayview neighborhood sales on the Kootenai side of the county line. Based on this data, Respondent concluded assessed values in subject's subdivision were low and needed to be increased. Specifically, Respondent stated the data revealed improvement values needed to be increased sharply to reach market levels, thus the 75% trend factor. Respondent additionally disagreed with Appellants' suggestion to use the same 35% increase Kootenai County applied to improvements in Bayview for 2022, noting Kootenai County also increased improvement values for the 2021 assessment year, whereas improvement values in subject's subdivision were not increased for 2021. In other words,

Respondent's 75% trend factor reflects appreciation over a two (2) year period, while Kootenai County's 35% factor represented a single year increase.

Looking more specifically at subject's valuation, Respondent offered a comparative analysis of three (3) improved waterfront sales from the Bayview area. Sale No. 1, located roughly two (2) miles west in Kootenai County, was a waterfront parcel with 146 feet of shoreline. The property was improved with a 3,678 square foot residence constructed in 1988, as well as some additional outbuildings, which were not described. This property sold in August 2021 for \$1,199,000. Sale No. 2 concerned a 1,776 square foot residence constructed in 1985 and situated on a parcel with 118 waterfront feet in subject's subdivision. The property sold for \$790,000 in October 2021. Sale No. 3 was the October 2020 sale of a property in subject's subdivision with 64 feet of waterfront for \$1,100,000. The property was improved with a 1,936 square foot residence constructed in 2005 and extensively remodeled prior to sale, plus additional undisclosed improvements with an assessed value totaling roughly \$150,000. Each sale property was compared to subject, and adjustments were made for construction quality, condition, age, size, and other improvements. Respondent also used a 2% per month time adjustment factor in the analysis. The analysis yielded respective adjusted sale prices of \$1,028,298, \$1,094,048, and \$1,429,345 for Respondent's three (3) sales. Subject's current valuation is \$1,183,984, which Respondent argued was well within the range indicated by the adjusted sale prices.

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 estimating the market value of real property 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 the subject and the sale properties.

The central issue in this matter is less about the market value of the subject property, and instead concerns whether the increase in valuation was permissible under Idaho Code § 63-3813, which generally prohibits a BTA-ordered value from being increased the subsequent assessment year. And because the valuation of subject's improvements was increased through two (2) separate actions, there are two (2) relevant inquiries. The first is whether the 75% trend factor applied to improvements throughout subject's subdivision was allowed by the statute, and the second is whether the BOE's

subsequent decision to increase the value of subject's improvements above the 75% trend rate was permissible.

Idaho Code § 63-3813 reads,

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.

(Emphasis added).

The BTA's 2021 decision directing a market value change for the subject property was not further appealed to the district court so the provisions of 63-3813, I.C. apply here. Regarding the first increase resulting from the 75% trend factor applied by the assessor's office, the Board identified no conflict with the above statute. The increase, while certainly notable, was uniformly applied to all improvements in subject's subdivision, meaning it was applied equally to all properties of a class/category within a clearly defined area. This is precisely the type of annual trending action contemplated by the statute and is therefore permissible.

The Board, however, did not reach the same conclusion with respect to the second increase in subject's valuation ordered by the BOE. As emphasized above, the statute only allows a value ordered by the BTA to be changed through trending or equalization applied *to all properties in a class within a defined area*. The BOE's decision satisfied neither of these qualifying criteria. The BOE increased the values of only three (3) properties in the subdivision above the 75% trending factor, each at a different rate of

increase. This is not a consistent adjustment rate applied to all properties in a class or category as required. Also, unless the three (3) properties adjusted by the BOE comprise their own specially defined area within the subdivision, for which there was no such indication in the record, it cannot be said the BOE's action was applied to properties within a defined area. In short, the BOE's decision to further increase subject's valuation above the neighborhood trend did not conform to the requirements of Idaho Code § 63-3813, and therefore cannot stand.

Turning now to Appellants' concerns regarding the accuracy of the 75% trend factor itself, the Board ultimately did not find sufficient evidence to conclude it is erroneous. Admittedly, the record is rather thin on exactly how the adjustment factor was determined, with only vague references by Respondent to a sales study. While the Board would have preferred more details about the development of the trend factor, a presumption of correctness attaches to Respondent's valuations. It is Appellants' burden to prove any alleged error, which the Board did not find in this instance. Appellants broadly referenced a 35% increase applied to improvements in Bayview properties located in Kootenai County, but the record was void of any details about how the adjustment factor was developed. Without more information, it was not possible for the Board to meaningfully compare the two (2) adjustment factors, let alone conclude the lower 35% factor was better or more reliable.

Furthermore, as Respondent noted, Kootenai County also increased improvement values in 2021, whereas improvement values were not increased in Bonner County last year. In other words, Kootenai County's 35% increase for 2022 was in addition to the prior year's increase, which is unknown in the record. Respondent's 75% trend factor, by

contrast, effectively represents a two (2) year adjustment due to the lack of increase in 2021. Therefore, on January 1, 2022, improvement values started at different levels between the two (2) counties, so it would be inappropriate to take the trend factor developed for one (1) county and apply it to the other. So, where Appellants did not prove error in the 75% adjustment factor determined by Respondent, the Board will accept the figure as an appropriate adjustment rate.

Lastly, Appellants petitioned the 20% access and topography adjustment determined by the BTA last year become a permanent adjustment in subject's future land assessments. Respondent did not specifically address this concern, but made reference to an ongoing effort to develop a valuation model capable of distinguishing between waterfront parcels in the subdivision with no lake access from those parcels with developed access to the water. While the Board did find good cause for the 20% land adjustment in 2021, the Board's jurisdiction is limited strictly to the current assessment year and does not extend to future years, except as provided in Idaho Code § 63-3813. We did note in last year's decision a 20% adjustment has historically been applied to subject's land value, though that adjustment was removed for 2019 without explanation. In any event, the Board has no authority to order a permanent or otherwise ongoing adjustment.

In accordance with Idaho Code § 63-511, the burden is with Appellants to establish subject's valuation is erroneous by a preponderance of the evidence. Though Appellants did prove error in subject's assessed value, the Board did not find sufficient evidence to reduce the value to that petitioned by Appellants. The 75% trend factor applied to subject's improvements was administered in conformity with Idaho Code § 63-3813, so

will not be disturbed. The BOE's subsequent decision to further increase the value of subject's improvements, however, fell outside the allowable parameters of the statute so must be corrected. The Board will revert subject's total valuation to \$958,600, as initially assessed for 2022. The decision of the Bonner County Board of Equalization is reversed 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, REVERSED, reducing the total assessed value to \$958,600, with \$225,400 attributable to the land and \$733,200 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 19th day of April, 2023.