

BEFORE THE IDAHO BOARD OF TAX APPEALS

ROSENGRANT REVOCABLE INTERVIVOS)	
TRUST,)	
)	APPEAL NO. 22-A-1214
Appellant,)	
)	
v.)	FINAL DECISION AND ORDER
)	
BOUNDARY COUNTY,)	
)	
Respondent.)	
)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Boundary County Board of Equalization denying an appeal of the valuation for taxing purposes on property described by Parcel No. RP00600006003AA. The appeal concerns the 2022 tax year.

This matter came on for hearing November 16, 2022, in Bonners Ferry, Idaho before Board Member Kenneth Nuhn. Trustee Gina Rosengrant appeared at hearing for Appellant. Boundary County Assessor David Ryals 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 a residential property.

The decision of the Boundary County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$59,290, and the improvements' value is \$33,580, totaling \$92,870. Appellant agrees with the value of the improvements but contends the correct land value is \$8,860, for a total value of \$42,440.

The subject property is a 2.46 acre hillside parcel located in Bonners Ferry, Idaho. The property is improved with a 400 square foot dry cabin constructed in 2019 and rated by Respondent as a “Low” construction grade/quality structure.

Appellant explained the subject parcel had a long history of being assessed as Category 15 vacant residential land; however, it changed for 2022 when one (1) acre was carved out and assessed as an improved residential homesite. The change was due to the addition of the small cabin structure added by members of Appellant’s family in 2019. Respondent identified the cabin during a review of the property in preparation for the 2022 assessment. Appellant shared the cabin was intended to be a recreational-type structure used for family bonfires or other gatherings during summer months. The cabin has never been occupied, and according to Appellant, nobody has even visited the site during the last couple years. Appellant attempted to have the cabin moved from the property, but due its orientation amongst some trees, the job turned out to be more difficult than anticipated and will require more help. Appellant intends to remove the structure in the next year or so, once enough help can be arranged. As the cabin has never been used for residential purposes, Appellant argued it was inappropriate to change the land category to improved homesite.

In addition to no residential use of the subject property, Appellant pointed out the parcel is steeply sloped, has no utilities, and is land-locked. The nearest access point to a public roadway is across a neighboring parcel, but the owner has refused to grant access easement, even a temporary one. Due to the narrow shape and steep slope, Appellant testified developing vehicular access from the adjacent parcel also owned by Appellant was not possible. The only way to access the property on the ground is to walk

up the steep hill from Appellant's adjacent parcel. With no utilities and no access, Appellant questioned how subject could be considered a residential homesite for purposes of assessment.

Respondent stated its policy is to assign a homesite to any parcel to which a residential structure is attached and assess the property accordingly. In this regard, Respondent shared assessment information on four (4) other parcels with unoccupied cabin improvements, all of which included a one (1) acre homesite valuation. Locations of the referenced properties were not shared, but there was no indication any of the parcels were in subject's neighborhood. Respondent believed one (1) of the properties may possibly be land-locked but expressed confidence the others were accessible by public roadway. Respondent maintained that because a cabin is currently on the subject property, it must be assessed as a homesite.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination 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, 2022, 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 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 the differences in property characteristics between subject and the sale properties.

Neither party developed a traditional valuation model, nor did the parties offer sales or any other market data to the record. Instead, Appellant's arguments centered on the change in classification of subject's land to include a one (1) acre homesite despite no history of residential use on the property. Respondent argued the property is improved with a residential-type structure and so it must therefore be assessed as a residential homesite to be consistent with its internal assessment policy regarding such improvements. Though the Board understands Respondent's position and its policy regarding remote cabins in the county, the policy does not appear well-suited for a property with subject's somewhat unique circumstances.

To begin, the subject property not only lacks utilities, but it has no legal access. It is difficult in the Board's view to classify a property as residential when there is no way to access said property, to be able to put it to such residential use. Appellant has reportedly attempted to secure an access easement through the neighbor's property, but such efforts were rebuffed. Currently, the only way to access the property is on foot from an adjacent parcel also owned by Appellant, so any buyer of the subject property would also

have to purchase the adjacent parcel if the buyer wanted to access subject. At the very least, the market value of the property is significantly diminished by the lack of access, but Respondent made no access adjustments.

While the lack of access effectively renders the subject property non-residential, even more concerning to the Board was Respondent's apparent disregard for how the property is used. Idaho Code § 63-208(1) provides in pertinent part,

It shall be the duty of the state tax commission to prepare and distribute to each county assessor . . . rules prescribing and directing the manner in which market value for assessment purposes is to be determined for the purpose of taxation. The rules promulgated by the state tax commission shall require each assessor to find market value for assessment purposes of all property . . . within his county according to recognized appraisal methods and techniques . . . *provided, that the actual and functional use shall be a major consideration when determining market value for assessment purposes.*
(Emphasis added).

Appellant testified subject has never been used for residential purposes, nor was there any other suggestion of residential use in the record. The small cabin-like structure was constructed by Appellant's family members for family gatherings and functions. There are no utilities and no vehicular access to the cabin site. It is difficult for the Board to accept the position the subject property would attract a large pool of potential buyers seeking to purchase a residential property in the area. The property simply does not afford the utility to support normal residential use; therefore, a rural homesite should not have been assessed.

Idaho Code § 63-511 places the burden on Appellant to establish subject's valuation is erroneous by a preponderance of the evidence. Given the record in this matter, the Board found the burden of proof satisfied. Where there was no support for changing subject's land category to include a homesite, the Board will revert to subject's

2021 land classification as Category 15 vacant land. The decision of the Boundary County Board of Equalization is reversed, as detailed below.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Boundary County Board of Equalization concerning the subject parcel be, and the same hereby, REVERSED, to reflect a reduction in total valuation to \$42,440, with \$33,580 attributable to the improvements and \$8,860 to the land.

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 18th day of April, 2023.