

BEFORE THE IDAHO BOARD OF TAX APPEALS

LYNNE MARCUS,	)	
	)	
Appellant,	)	APPEAL NOS. 23-A-1025 and
	)	23-A-1026
v.	)	
	)	FINAL DECISION AND ORDER
ADA COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**RESIDENTIAL PROPERTY APPEALS**

These appeals are taken from decisions of the Ada County Board of Equalization denying exemption claims on properties described by Parcel Nos. S0524428202 and S0524428201. The appeals concern the 2023 tax year.

These matters came on for hearing October 10, 2023, in Boise, Idaho, before Board Member Leland Heinrich. Craig Marcus appeared at hearing for Appellant. Ada County Chief Deputy Assessor Brad Smith represented Respondent.

Board Members Leland Heinrich, Kenneth Nuhn, and Doug Wallis join in issuing this decision.

**The issues on appeal concern the market values of two (2) vacant residential properties.**

**The decisions of the Ada County Board of Equalization are affirmed.**

FINDINGS OF FACT

Parcel No. S0524428202 (Appeal 23-A-1025)

The assessed land value is \$54,000. Appellant contends the correct value is \$39,100. The property is a .79 acre vacant parcel in Garden City, Idaho.

Parcel No. S0524428201 (Appeal 23-A-1026)

The assessed land value is \$26,400. Appellant contends the correct value is \$20,100. The property is a .27 acre vacant parcel adjacent to the above property.

Appellant testified the subject parcels have been used as irrigated grazing land for over 100 years and have never been utilized as residential property. It was explained the agricultural exemption was never applied for because Appellant viewed applying as a burden, where it takes three (3) years of agricultural use to prove eligibility for an agricultural exemption for parcels under five (5) acres. Other difficulties were alluded to which made applying unattractive to Appellant.

Appellant was concerned Respondent seemed to be assessing subjects at full market value as vacant residential lots, as part of Appellant's homestead property consisting of two (2) other parcels which border subjects. Appellant additionally claimed Respondent will not assign an "irrigated grazing" land categorization unless the landowner has obtained an agricultural exemption. Appellant called this process "unconstitutional, beyond the legal power of Ada County and a denial of due process of law." From Appellant's perspective, subjects are being valued at their highest and best use, not at their actual and functional use.

Appellant next described the current condition of the subject parcels. Roughly five (5) to ten (10) years ago, a commercial property owner upstream from subject excavated a buried pipe and reinstalled it incorrectly, cutting off irrigation to subject. Repair work was not completed properly, and water was not restored to subject for several years, which was enough time for most of the grass to die and subjects to become overgrown with weeds. Appellant opined the only way to consider the current condition would be to value

subjects as dry grazing until the pasture is restored. Since 1995, Appellant had fed cattle on the properties during the spring before selling them in the fall. Appellant stated three (3) cows were grazed each year. After the land was damaged, Appellant was no longer able to use the land for grazing. Currently, subjects are still mostly covered in weeds and Appellant rents goats in an attempt to control them.

Appellant testified subjects are higher in elevation by a few feet than the adjacent homestead, and a riding mower could not easily be used on the subject properties because of the water lateral cutting through the property. Appellant testified these facts further prove that subjects are not used as a yard for the homestead.

Appellant enlisted a real estate agent who was unable to find any properties comparable to subjects—i.e. irregularly small grazing parcels amid residential areas. The agent did testify, however, that bare land in Ada County increased in assessment value from 2022 to 2023 no more than 10%, and many parcels did not see increased assessments at all. One of subject's assessments increased 31%; the other increased 38%. The agent further expressed concern that the larger subject parcel's assessment rate was \$1.58 per square foot, but the smaller subject parcel had an assessment rate of \$2.28 per square foot.

Appellant additionally engaged a commercial real estate appraiser who specializes in farm and ranch appraisals. The appraiser discussed how unique the subject parcels are and the difficulty in appraising them due to the size and location. The appraiser first conducted a sales comparison analysis. It was noted there is not a lot of agricultural land in Ada County, so eight (8) comparable sales located in neighboring Canyon County were used. Property characteristics, sale prices, locations, and sale dates were not shared.

Adjustments were made for size, condition, and irrigation percentages. The appraiser stated the analysis supported a valuation of \$26,000 per acre, so roughly \$26,000 total for the two (2) subject properties.

The appraiser also provided an income analysis to determine subjects' values. It was stated the average pasture rent in Idaho for 2023 was \$20.50 per acre per month, generally with six (6) to ten (10) acres per cow. Using the six (6) acre figure, a monthly income of \$123 per month was calculated, then a yearly income of \$750 for the six (6) month grazing season of May to October. The appraiser applied a cap rate of 3%, the average of agricultural cap rates which ranged from 2-4%, which indicated a value of \$25,000 per acre.

Overall, the appraiser stressed the sales comparison analysis value was the best indicator of market value, and that the income analysis supports the value derived. Combined, it was opined the subject parcels are worth \$26,000.

In response to Appellant's concerns that subjects are not assessed as agriculturally exempt, Respondent cited Idaho Code 63-604(4), which states, "Land utilized for the grazing of a horse or other animals kept primarily for personal use or pleasure rather than as part of a bona fide for-profit enterprise shall not be considered to be land actively devoted to agriculture." Respondent noted the land is not currently used for grazing and is not part of a for-profit enterprise, therefore making subjects ineligible for the agricultural exemption.

Respondent emphasized land under five (5) acres must be actively devoted to agriculture for three (3) years to qualify for an exemption, and an application must be filed. Absent an exemption, such property is presumed non-agricultural and valued as

residential. Respondent also stressed this does not mean subjects are being assessed as buildable homesites. Respondent stated the parcels were assessed according to their actual and functional use as vacant lots.

Respondent stated values in Ada County have been rising the past several years, but subjects' assessments have been stagnant. A reappraisal of subjects was completed in 2022, and the values were raised to mirror the appreciating market. It was explained subjects and Appellant's other two (2) adjacent parcels are assessed as a single property, with values allocated to each individual parcel.

Respondent provided information on two (2) sales to support subjects' 2023 assessments. Sale No. 1 was a .25 acre lot with no utilities which sold for \$115,000, or \$10.56 per square foot, in November 2022. Respondent stated the property was unbuildable. Sale No. 2 was a .38 acre property with a well and septic which sold in March 2022 for \$290,000, or \$17.52 per square foot. This property had an older residence at the time of sale which was torn down soon after.

#### 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, 2023, 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. There are three (3) approaches to value: 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.

Respondent provided two (2) sales in support of subject’s valuations but did not conduct a traditional sales analysis. The properties sold in November 2022 for \$115,000 and March 2022 for \$290,000. Subjects are assessed at a total of \$80,400, which is notably below the sale prices. While the Board would have preferred a more traditional analysis, it is understood that subjects are quite unique in terms of usage and location. Additionally, the sales Respondent provided comprised the only detailed sales information in the record.

Appellant referenced a sales comparison approach for the subject properties; however, no information regarding the sales or the analysis was provided, only a value conclusion of \$26,000. There was a similar issue with the income approach Appellant alluded to: it was not clear from where the information used to calculate the \$26,000 value conclusion was derived. Where the analyses offered by Appellant were largely

unsubstantiated and unsupported, the value conclusions were not considered in the Board's determination of subjects' market values.

Appellant's primary concern was that subjects were not assessed as agricultural grazing land but were instead assessed at full market value as vacant residential lots. Appellant, however, has never applied for an agricultural exemption for the subject properties, which is required by Idaho Code § 63-602. Further, as specified in Idaho Code § 64-604, for a parcel under five (5) acres dedicated to an agricultural purpose to receive an agricultural exemption, the property owner must prove:

- (b) The area of such land is five (5) contiguous acres or less and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and
  - (i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income; or
  - (ii) It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars (\$1,000) or more. When the area of land is five (5) contiguous acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met.

Where Appellant has never applied for the exemption, subjects are ineligible to receive special valuation as grazing land. The Board finds Respondent's valuation of subjects as vacant lots attached to a large residential property is proper.

In accordance with Idaho Code § 63-511, the burden is with Appellant to establish subjects' valuations are erroneous by a preponderance of the evidence. Given the record in this instance, the burden of proof was not met. Appellant offered no market information in support of lower valuations, and although Appellant insisted subjects are currently used for grazing, such was not demonstrated in the record. Additionally, special valuation under an agricultural exemption may not be granted where an application was not first

submitted. Overall, Appellant has failed to demonstrate subjects are not being properly assessed at their current actual and functional use as buffer ground. The Board will uphold the decisions of the Ada County Board of Equalization.

**FINAL ORDER**

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Ada County Board of Equalization concerning the subject parcels be, and the same hereby are, AFFIRMED.

DATED this 12<sup>th</sup> day of February, 2024.