

BEFORE THE IDAHO BOARD OF TAX APPEALS

JAMES AND LORI NEWTON,)
)
Appellants,) APPEAL NO. 23-A-1052
)
v.) FINAL DECISION AND ORDER
)
JEFFERSON COUNTY,)
)
Respondent.)
)
)
)
_____)

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Jefferson County Board of Equalization denying an appeal of the valuation for taxing purposes on property described by Parcel No. RP04N40E178259. The appeal concerns the 2023 tax year.

This matter came on for hearing October 5, 2023, in Rigby, Idaho, before Board Member Doug Wallis. Appellants James and Lori Newton were self-represented. Jefferson County Prosecuting Attorney Mark Taylor 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 Jefferson County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$325,100, and the improvements' value is \$547,863, totaling \$872,963. Appellants contend the correct total value is \$0.

The subject property is a 6.86 acre rural residential parcel located roughly nine (9) miles east of Rigby, Idaho. The property is improved with a four (4) bedroom, two (2)

bathroom split-level residence with an attached garage constructed in 1979. The residence totals 3,476 square feet in size, with 1,738 square feet on the main floor and 1,738 square feet in the basement, of which 435 square feet are unfinished. The property is further improved with a detached shop and four (4) smaller outbuildings.

The subject property is situated at the end of a private road named E 267 N; a road nearly one (1) mile in length which runs through several other privately owned parcels. These privately owned parcels were once intended to be a part of the Willows West subdivision, for which a plat was filed in 1979, though the plat was later vacated. At some point thereafter the name changed to South Fork Willows subdivision and another plat was drawn but not finalized. This plat included the access road E 267 N. This road was left in place as a private access road after the subdivision was vacated because the road provided access to several parcels that were intended to be included in the subdivision. Though the subject property is not a part of the South Fork Willows subdivision, access to the parcel is via E 267 N, which right-of-way was first memorialized in a warranty deed recorded in 1993 and was also included in the 2006 warranty deed to Appellants.

Sometime in 2022, Appellants filed an application with the Jefferson County Planning & Zoning Department (P&Z) to split the subject property. The application was denied by P&Z, so Appellants appealed to the Jefferson Board of County Commissioners (BOCC). In a January 3, 2023, public hearing, the BOCC upheld the decision of P&Z to deny Appellants' application to split the subject parcel. The BOCC's decision letter, dated January 9, 2023, stated, "[t]he [subject] property is a legal nonconforming use as a 15th lot on E 267 N, a private drive." The BOCC further noted that county ordinances limit the number of parcels which can be served by a private access road to three (3) lots. The

road in question, E 267 N, however, currently serves fifteen (15) lots, including subject. The BOCC determined that granting Appellants' application to split the subject property would create an additional lot, which would in turn expand the nonconforming use of the private road. Therefore, the BOCC upheld P&Z's decision to deny the application.

Appellants viewed the BOCC's finding that E 267 N is a private road as stripping away access to the subject property. So, Appellants filed a complaint with the 7th District Court in February 2023 against the owners in the nonexistent South Fork Willows subdivision claiming, among other things¹, that there is an implied easement over the road at issue. Appellants petitioned for partial summary judgment, which was denied due to the absence of certain factual findings regarding the ownership and historical use of the road. The matter is still with the district court.

Appellants appealed subject's assessed value to the Jefferson County Board of Equalization (BOE). On July 7, 2023, the BOE issued its decision upholding the assessed value of the property. Appellants then timely appealed the valuation to this Board.

Appellants argued the subject property was unmarketable to potential purchasers, and thus worthless, unless and until the district court determines subject does have legal access, either through implied easement, or otherwise. Respondent disagreed, arguing subject does have legal access per the warranty deed from 1993 stating the subject property was transferred, "[t]ogether with the right appurtenant to an existing right-of-way as platted through the South Fork Willows Subdivision", which language also appears verbatim in the 2006 warranty deed to Appellants. In Respondent's view, subject does

¹ A copy of the complaint filed with the district court was not provided, but based on the court's August 30, 2023, Order to Dismiss Count 4, it is apparent the lawsuit includes multiple claims.

not suffer any access issues and therefore must be assessed at market value, the same as all non-exempt property in Idaho.

In support of subject's current assessed value, Respondent offered information on four (4) improved sales, as well as seven (7) vacant lot sales. The improved sales were reportedly from an October 2022 appraisal of the subject property provided by Appellants during the hearing before the BOE. The sale properties ranged in size from 1.18 to 10.0 acres and were improved with residences from 2,912 to 3,548 square feet. Sale prices were from \$550,000 to \$730,000. In an effort to isolate the value attributable to the sale residences, Respondent removed land and outbuilding values from the respective sale prices, leaving residual price indications from roughly \$413,000 to \$554,000, or from \$141 to \$177 per square foot. For comparison, subject's residence is assessed at \$487,163, or approximately \$140² per square foot.

Respondent's land sales concerned parcels ranging in size from 2.99 to 6.89 acres. Specific locations of the sale lots were not shared, but all were reportedly located in areas with natural cottonwood or cedar trees. Sale prices ranged from \$223,500 to \$500,000, or \$43,541 to \$83,612 per acre. The median price rate was roughly \$49,000 per acre. Subject's 6.86 acre lot is assessed at \$45,204 per acre, or \$310,100, plus an additional \$15,000 for the well and septic improvements, which is the standard rate applied to all parcels in the county with onsite improvements. Based on the sales, Respondent maintained subject's assessed value was reasonable.

² In its exhibit materials, Respondent transposed the assessed values of subject's land and residence, which resulted in an erroneous rate of \$93.53 per square foot for the residence.

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. The sales comparison approach, the cost approach, and the income approach comprise the three (3) primary methods for determining market value. *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.

Appellants contended the BOCC's decision to deny Appellants' application to split the subject parcel also effectively stripped legal access to the property. As such, it was argued the subject property is not marketable or otherwise saleable, and therefore the

BOE erred in upholding the assessed value. Until the issue is resolved, Appellants argued the market value of the property should be \$0.

The Board agrees subject's market value would be significantly impacted if it were determined the property lacks legal access, however, no such official determination has been made in this case. The access issue is currently being litigated in district court, where it will be decided whether an implied easement, or some other type of access easement, exists with respect to the subject property. There have not been any issues related to subject's access since the parcel was created in 1990, nor did Appellants report any current restrictions on their ability to access the property. However, now that a potential issue concerning subject's access is actively before the court, it cannot be definitively concluded that subject does have legal access as argued by Respondent. At a minimum, there is a cloud around the legal access issue which will not be resolved until the court issues its ruling. In the Board's view, this uncertainty, which would have to be disclosed to any potential purchaser, does negatively impact subject's marketability and thus its market value. This does not mean subject is worthless as claimed by Appellants, just that the property would likely be more difficult to sell than an otherwise similar property with no access questions pending before the court.

Having determined subject is not worthless, the inquiry shifts to the current market value of the property. In this regard, Respondent offered several recent sales in support of subject's assessed value. While the sales data was appreciated by the Board, details regarding the sale properties were scant. Indeed, with the exception of sale date and price, the only information shared was parcel size and the square footage of the sale residences and garages. No information concerning construction quality, condition,

location, or any other relevant property characteristic was provided, which made direct comparisons with the subject property rather difficult. That being said, Respondent's sales data represented the only market evidence presented in this matter, so it featured heavily in the Board's consideration of subject's market value.

Pursuant to Idaho Code § 63-511, Appellants bear the burden of establishing error in subject's assessed value by a preponderance of the evidence. Given the evidence presented in this matter, the Board finds the burden of proof satisfied but disagrees subject's market value is \$0, as petitioned by Appellants. While the limited sales data was found generally supportive of Respondent's value conclusion, no consideration was given for the negative impact on marketability caused by the uncertainty surrounding subject's access, which is where the Board found error in the analysis. Under the circumstances presented here, the Board will reduce subject's total valuation to \$698,370. The decision of the Jefferson County Board of Equalization is modified accordingly.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Jefferson County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in subject's total valuation to \$698,370, as follows:

Land:	\$260,080
Improvements:	\$389,730
<u>Other Improvements:</u>	<u>\$ 48,560</u>
Total:	\$698,370

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 that under certain circumstances the above-ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 29th day of January, 2024.