

BEFORE THE IDAHO BOARD OF TAX APPEALS

CLAYTON DAINES,	)	
	)	
Appellant,	)	APPEAL NOS. 24-A-1116
	)	through 24-A-1120
v.	)	
	)	AMENDED*
PAYETTE COUNTY,	)	FINAL DECISION AND ORDER
	)	
Respondent.	)	
	)	
_____	)	

\*Amended for clerical error. Parcel Numbers corrected on page 2.

**SITE IMPROVEMENT EXEMPTION APPEAL**

These appeals are taken from decisions of the Payette County Board of Equalization denying claims of exemption and modifying the valuations for taxing purposes on properties described by parcel number on Attachment A. The appeals concern the 2024 tax year.

These matters came on for hearing November 7, 2024, in Payette, Idaho, before Board Member Leland Heinrich. Richard Daines appeared at hearing for Appellant. Payette County Assessor Sandra Clason represented Respondent.

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

**The issue on appeal concerns whether the subject properties are entitled to special assessment treatment pursuant to Idaho Code § 63-602W, commonly referred to as the site improvement exemption.**

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

FINDINGS OF FACT

Parcel No. P11550010020 (Appeal #24-A-1116)

The assessed land value of this vacant 0.39 acre lot is \$121,200. Appellant contends the parcel qualifies for special assessment treatment pursuant to Idaho Code § 63-602W(4). For purposes of this decision, this subject parcel will be referred to as Lot 2.

Parcel No. P11510000030 (Appeal #24-A-1117)\*

The assessed land value of this vacant 0.14 acre lot is \$39,750. Appellant contends the parcel qualifies for special assessment treatment pursuant to Idaho Code § 63-602W(4). For purposes of this decision, this subject parcel will be referred to as Lot 3.

Parcel No. P11510000040 (Appeal #24-A-1118)\*

The assessed land value of this vacant 0.14 acre lot is \$40,150. Appellant contends the parcel qualifies for special assessment treatment pursuant to Idaho Code § 63-602W(4). For purposes of this decision, this subject parcel will be referred to as Lot 4.

Parcel No. P11550010050 (Appeal #24-A-1119)

The assessed land value of this vacant 1.01 acre lot is \$123,624. Appellant contends the parcel qualifies for special assessment treatment pursuant to Idaho Code § 63-602W(4). For purposes of this decision, this subject parcel will be referred to as Lot 5.

Parcel No. P11550010060 (Appeal #24-A-1120)

The assessed land value of this vacant 1.01 acre lot is \$123,624. Appellant contends the parcel qualifies for special assessment treatment pursuant to Idaho Code § 63-602W(4). For purposes of this decision, this subject parcel will be referred to as Lot 6.

The subject properties are vacant lots located in two (2) separate subdivisions in Payette, Idaho. Lots 3 and 4 are adjacent parcels located in the Daines' Riverview subdivision, which was platted in 1996. Lots 2, 5, and 6 are located in the Daines subdivision, which was platted in 2009.

Appellant contended the subject properties were improperly denied the special assessment treatment afforded under Idaho Code § 63-602W(4), known as the site improvement exemption. In basic terms, the code section exempts the value of site

improvements associated with land, such as roads and utilities, on real property held by a land developer in the normal course of the developer's business, until such property is developed or conveyed to a third party. Appellant noted the subject lots are vacant, but stated site improvements including road, sewer, electricity, water, and curb and gutters had been installed at or near the time the respective subdivision plats were approved. It was explained sidewalks have not been installed on the subject lots because they have not yet been improved. According to Appellant, sidewalks are typically installed by the contractor during construction of the residence because the heavy equipment involved in the construction would damage or destroy sidewalks if installed during the site development stage with the other site improvements. Appellant testified all required site improvements had been installed on the subject lots, and the parcels therefore qualified for the site improvement exemption.

Appellant was also concerned the Payette County Board of Equalization (BOE) erred in increasing the values of subject Lots 3 and 4 in the Daines' Riverview subdivision. It was explained the parcels were initially assessed as unbuildable lots, at 50% of the market value of a buildable lot, for the current 2024 assessment year. Though it was unclear when<sup>1</sup> the assessor's office determined subject Lots 3 and 4 were unbuildable, the parcels have been assessed as unbuildable for at least the last several years. Appellant was unaware Lots 3 and 4 had been deemed unbuildable until the issue was raised at the BOE hearing. After consulting with the city, it was determined the lots were buildable, so the BOE removed the 50% unbuildable adjustment, which doubled the respective assessed values of Lots 3 and 4. Appellant contended the only issue before

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<sup>1</sup> A note on the ProVal sheet for Lot 40 states, "NON BUILDABLE LOT PER CITY. 3/2017 JI."

the BOE was whether the subject properties qualified for the site improvement exemption, so it was improper for the BOE to consider issues related to the valuations.

Though there was some question in Respondent's mind whether all the required site improvements had been installed, Respondent argued the subject lots were not entitled to the site improvement exemption because Appellant did not file an application for the exemption as required by the statute. Appellant explained at the time the subdivisions were platted no application was required to receive the exemption, a property simply qualified or not. That being said, Appellant stated an application was filed at some time after the statute was amended during the 2012 legislative session to require an application, but it was unclear when such application was filed. Respondent testified there was no record of Appellant's application, so maintained none of the subject lots qualify for the exemption for 2024. In response, Appellant pointed out two (2) other lots in Daines subdivision also owned by Appellant received the site improvement exemption for 2024, so it was curious to Appellant that the exemption was denied for subject Lots 2, 5, and 6. Respondent did not have the assessment details for the lots referenced by Appellant on-hand during the hearing so could not speak to whether those parcels received the exemption, or perhaps some other type of adjustment.

#### 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.

The controlling issue in this matter is whether the subject properties qualify for the site improvement exemption provided in Idaho Code § 63-602W.

Idaho Code § 63-602W, reads in relevant part,

The following property is exempt from property taxation: business inventory. For the purpose of this section, “business inventory” means all items of tangible personal property or other property, including site improvements, described as . . .

(4) Site improvements that are associated with land, such as roads and utilities, on real property held by the land developer . . . for sale or consumption in the ordinary course of the land developer’s business until other improvements, such as buildings or structural components of buildings, are completed or the real property is conveyed to a third party . . . for purposes of this subsection, the amount of the exemption shall be the difference between the market value of the land with site improvements and the market value of the land without site improvements . . . *An application is required for the exemption* provided in this subsection in the first year the exemption is claimed; in subsequent years no new application is required. *The application must be made to the board of county commissioners by April 15* and the taxpayer and county assessor must be notified of any decision and assessment of property by May 15. The decision or assessment of property, or both, of the board of county commissioners may be appealed to the county board of equalization . . . .

(Emphasis added).

Appellant is a developer holding the subject lots for sale or consumption, and according to Appellant, site improvements have been installed in both subdivisions. In other words, the subject lots are the type of property eligible for the site improvement exemption. The issue therefore centers on the application requirement.

To begin, the statute requires an application to be filed with the board of county commissioners (BOCC) by April 15 of the relevant year. The BOCC’s decision is then appealable to the BOE. However, in the present case, there is no record that Appellant filed an application with the BOCC, and the BOCC did not issue any decision regarding subjects’ eligibility for the site improvement exemption. Without a decision from the

BOCC, it is unclear how the exemption issue was ripe for consideration by the BOE, even if it was the basis for Appellant's appeal to the BOE. Despite the procedural peculiarities, the Board will nonetheless address the exemption issue.

The above code section unequivocally requires an application be filed by April 15 of the relevant year to qualify for the site improvement exemption. Appellant testified an application was filed, though it was not apparent in the record in which year such application was filed. In any event, Respondent has no record of a site improvement exemption application for the subject properties, nor does Appellant have a copy. While the Board has no reason to doubt Appellant's recollection that an application was filed, it is impossible to confirm without a copy of such application.

The Idaho Supreme Court has consistently held, "Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption. An alleged grant of exemption will be strictly construed. It must be in terms so specific and certain as to leave no room for doubt." *Bistline v. Bassett*, 47 Idaho 66, 71, 272 P. 696, 698 (1928). "It should further be observed that a grant of exemption from taxation is never presumed and statutes and constitutional provisions relating to exemptions should be strictly construed, and where a doubt arises it should be resolved against the exemption." *Lewiston Orchards Irrigation Dist. v. Gilmore*, 53 Idaho 377, 383, 23 P.2d 720, 722 (1933). Here, an application is required to be timely filed in order to receive the site improvement exemption, but without proof an exemption application was filed for the subject properties, the Board must conclude the statutory requirements have not been satisfied and that the subject properties do not qualify for the site improvement exemption for the 2024 assessment year.

Appellant also argued the BOE improperly increased the valuations of subject Lots 3 and 4 in the Daines' Riverview subdivision. In Appellant's view, the only issue before the BOE was whether the subject properties qualified for the site improvement exemption, so the BOE overstepped its authority when it examined the assessed values of the subject lots and increased the values of Lots 3 and 4. Respondent explained subject Lots 3 and 4 were considered unbuildable parcels for several years, including the 2024 assessment year, so were assessed with a downward 50% adjustment. After confirming the lots were buildable, the BOE removed the 50% adjustment factor, which in turn caused the respective valuations to increase. While the BOE's decision to increase the values of Lots 3 and 4 was surprising to Appellant, the BOE undoubtedly has such authority.

Idaho Code § 63-502 provides,

The function of the board of equalization shall be confined strictly to assuring that the market value for assessment purposes of property has been found by the assessor, and to the functions provided for . . . relating to exemptions from taxation. It is hereby made the duty of the board of equalization to enforce and compel a proper classification and assessment of all property required under the provisions of this title to be entered on the property rolls, and in so doing, *the board of equalization shall examine the rolls and shall raise or cause to be raised, or lower or cause to be lowered, the assessment of any property which in the judgment of the board has not been properly assessed . . . .*

(Emphasis added).

As the above statute makes clear, the board of equalization has an affirmative duty to ensure all property is properly classified and assessed, which naturally includes increasing values when necessary. In the case at bar, the BOE discovered subject Lots 3 and 4 were erroneously assessed as unbuildable lots. The BOE remedied the error by removing the unbuildable status and corresponding adjustment, thereby placing the subject lots into the proper classification of buildable lots and valuing them as such. So,

not only did the BOE not err by increasing the values of Lots 3 and 4, but the BOE was obligated to increase the values to fulfill its core statutory function of equalizing assessments.

In appeals to the Board, Appellant bears the burden of establishing subjects' valuations are erroneous by a preponderance of the evidence. Idaho Code § 63-511. The Board did not find the burden of proof satisfied in this instance. Specifically, Appellant did not prove the application requirement for the site improvement exemption was satisfied, nor did Appellant otherwise demonstrate error in subjects' valuations. Accordingly, the decisions of the Payette County Board of Equalization are affirmed.

#### FINAL ORDER

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

DATED this 14<sup>th</sup> day of January, 2025.