

BEFORE THE IDAHO BOARD OF TAX APPEALS

GARY AND EILEEN MALESKI,	)	
	)	
Appellants,	)	APPEAL NO. 23-A-1224
	)	
v.	)	FINAL DECISION AND ORDER
	)	
SHOSHONE COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Shoshone County Board of Equalization denying an appeal of the valuation for taxing purposes on property described by Parcel No. RPD04550060080A. The appeal concerns the 2023 tax year.

This matter came on for hearing on November 2, 2023, in Wallace, Idaho, before Board Member Kenneth Nuhn. Mandy Kaptan appeared at hearing for Appellants. Shoshone County Assessor Jerry White 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 vacant residential property.

The decision of the Shoshone County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$172,389. Appellants contend the correct value is \$115,000.

The subject property is a .23 acre vacant parcel located in the Galena Ridge I subdivision in Kellogg, Idaho, neighboring the Galena Ridge Golf Course.

Appellants purchased subject in July 2021 for an undisclosed amount. Subject was noted to be located in the Bunker Hill Superfund Site, which is a former mining site. Respondent clarified the area was mined at a time when inefficient mining practices contaminated the surrounding area. Appellants knew of the contamination at the time of purchase, but not the extent. Appellants shared the lot would require “extensive soil remediation for lead, arsenic, and cadmium levels prior to building.” Appellants did not know how much the soil remediation would cost. In addition, subject is steeply sloped and the cost to excavate before building would exceed \$150,000, according to Appellants.

To support the claim subject would require soil remediation, Appellants supplied an email from Panhandle Health District. The email shared the results of soil sampling completed in June 2021 and stated remedial action is required when “the top 12 [inches] of the final grade sample equal to or greater than 1000 ppm Lead or 100 ppm Arsenic.” Twenty (20) soil samples were taken and tested, covering all areas of subject. Lead levels in the samples were 71 to 23,100 ppm, and arsenic levels were “ND” to 631. The letter further advised Appellants to remove remains of an old structure “to be safe,” though such remedial action was not required.

Appellants next shared information on a sale which occurred directly across the street from subject. The .25 acre property sold in September 2022 for \$100,000, or \$9.18 per square foot. Appellants noted subject is 2,000 square feet smaller and is assessed at \$17.61 per square foot. The sale property reportedly had the same view as subject and was assessed at \$112,259, or \$10.31 per square foot.

Appellants stated there are currently nine (9) active listings in subject’s neighborhood with listing prices well under their assessed values, though exact details

were not provided. Appellants opined that, as none have sold, they are listed too high and therefore are assessed too high. Appellants noted some of the properties have been on the market for 200 days. Since 2021, Appellants stated only one (1) property in the area has sold close to its assessed value. Others had sale prices which indicated they were over-assessed by \$1 to \$5 per square foot.

Appellants next shared the subject neighborhood's homeowner's association (HOA) has stringent architectural requirements for all improvements in the subdivision. If subject were to be improved, the residence would need to meet aesthetic, square footage, and permissible exterior material requirements, among other items. Appellants opined these requirements would add tens, if not hundreds, of thousands of dollars of cost to a residence. Appellants' representative is a real estate agent and characterized the building requirements as the most extreme they have witnessed. Appellants further noted none of the properties in subject's neighborhood have been improved, presumably due to the prohibitive restrictions.

Respondent shared information on three (3) vacant land sales to support subject's assessed value. Respondent shared subject is in a more desirable location than the compared properties because it sits near the fairway, but the sale properties all had the same land grade as subject. Respondent clarified land grade is based on slope and terrain. Sale No. 1 was a .21 acre lot which sold in April 2022 for \$83,500, or \$9.04 per square foot. The property was closest to subject, but it did not border the golf course nor have a view of it. Sale Nos. 2 and 3 were noted by Appellants to be outside of subject's neighborhood. Sale No. 2 was a .10 acre lot which sold in May 2022 for \$65,650, or \$15.22 per square foot. Respondent stated this property was the same distance from

amenities as subject. Sale No. 3 was a .12 acre lot which sold in July 2022 for \$89,000, or \$17.76 per square foot. The property was 2.18 miles from subject, and Respondent noted it was closer to amenities and sold at a higher rate per square foot than subject is assessed for. In comparison, subject is .23 acres and is assessed at \$172,389, or roughly \$17.59 per square foot.

Respondent shared there were few sales of golf course lots in Shoshone County in 2022, so it looked at how golf course lots sold in neighboring counties. It was not clear which county or counties Respondent pulled information from, but Respondent stated properties near a fairway sold 50% higher than lots not near a fairway. In Shoshone County, Respondent shared, golf course lots on the fairway are assessed around 47% higher.

Appellants shared many concerns with Respondent's sales analysis. Primarily, Appellants were concerned sales within subject's neighborhood were not used. Appellants also had doubts the sale properties were of the same land grade as subject, stating Sale Nos. 2 and 3 are in a different part of town so would have very different remediation requirements than subject. Appellants also stated these two (2) parcels were level. Due to their level terrain and lack of required remediation, Appellants argued the properties would cost less to develop than subject. Overall, Appellants stated Sale Nos. 2 and 3 were not at all comparable to the subject property.

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, 2023, 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. There are three (3) approaches to value: the sales comparison approach, the cost approach, and the income approach. 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 the property characteristics between subject and the sale properties.

Appellants provided information on a singular sale which occurred across the street from subject, though the primary concern was subject’s terrain and the presence of lead and arsenic contamination in subject’s soil, and a belief these conditions were not properly considered in subject’s assessment. Appellants did not share exact costs to remedy the soil contamination, but shared the cost to excavate subject’s steep terrain to prepare for improvements would cost over \$150,000. It was also shared the neighborhood’s strict HOA rules would further increase building costs, as there are requirements regarding how the residence looks, minimum square footage, and

acceptable exterior materials. Appellants attributed the lack of improvements in the neighborhood to the HOA building requirements.

While Respondent did share information on three (3) sales, the properties did not share the same conditions as subject. They were not limited by the HOA stipulations, and none were described as contaminated. Additionally, the sale property closest in size and proximity to subject had a sale price of \$83,500, or \$9.04 per square foot. Subject is assessed at \$172,389, or \$17.59 per square foot.

Though exact costs were not shared, the Board agrees subject is overvalued, considering the significant costs associated with soil remediation and site excavation. The Board finds a negative value adjustment is warranted to account for these conditions.

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. The burden of proof was met in this instance, though the Board did not find sufficient evidence to lower the value to that requested by Appellants. Where subject faces significant restrictions to be developed, the Board will grant a reduction in value to \$123,629. The decision of the Shoshone County Board of Equalization is modified accordingly.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Shoshone County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease to \$123,629.

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 13th day of March, 2024.