

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF 1111 ELM) APPEAL NO. 13-A-1009
STREET LP from a decision of the Bonner County)
Board of Equalization for tax year 2013.) FINAL DECISION
) AND ORDER

VACANT LAND APPEAL

THIS MATTER came on for telephonic hearing November 15, 2013, before Hearing Officer Cindy Pollock. Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision. General Partner Dan Tonnemacher appeared at hearing for Appellant. Assessor Jerry Clemons, Chief Deputy Appraiser Ken Bocksch, and Appraiser Sue Brooks appeared for Respondent Bonner County. This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RPS0267002002TA.

The issue on appeal is the market value of an unimproved waterfront parcel.

The decision of the Bonner County Board of Equalization is affirmed.

FINDINGS OF FACT

Subject's assessed land value is \$100,382, and dock improvements value is \$5,670, totaling \$106,052. Appellant requests the land value be reduced to \$40,000, and the dock improvements value be removed from the assessment, for a total value of \$40,000.

The subject property is .207 acre parcel situated on the west shore of Lake Pend Oreille. With the exception of some modest dock improvements, the parcel is unimproved. Respondent characterized subject's South Sandpoint location as very desirable. Subject is located a couple blocks from a public boat launch and the site of an annual local music festival. Due to its irregular shape and small size, subject is considered unbuildable. Access to the lot is via a grassy right-of-way called Grey Way, which is owned by the city.

There was some disagreement concerning the amount of water frontage subject enjoys. Appellant contended the lot contained 100 front feet on the lake, however, Respondent calculated 102 front feet. Respondent's number was derived from a previously recorded plat map, as well as some verification work completed by the county mapping department. It was not clear the source of Appellant's size conclusion.

Appellant also challenged the inclusion of the dock improvements in subject's assessment. Appellant stated the dock belonged to the Army Corps of Engineers, so should not be part of subject's valuation. Respondent considered the dock as part of subject so included it in the assessment. Respondent used a cost manual to estimate the value of the dock, to which a heavy depreciation factor was applied to account for its poor condition.

Appellant disagreed with subject's assessed value for several reasons. First, Appellant contended the assessment methodology used by Respondent was inappropriate, and further that the adjustment factors were arbitrary. Appellant also argued consideration should have been given for subject's close proximity to a sewage treatment operation. Appellant further referenced a rapidly increasing number of aquatic plants in shallow areas of the lake, which were said to have diminished the appeal and general use of those areas.

In support of its \$40,000 value claim, Appellant offered a couple items. The first was subject's purchase for \$40,000, which occurred more than ten (10) years ago. The other was a prior decision by this Board regarding an adjacent waterfront parcel. The Board's decision set the adjacent land value at \$40,000¹. Due to its physical similarity to subject, Appellant contended subject should also be valued at \$40,000. Appellant further argued the value set by

¹It was noted the Board's value decision was only in effect for the tax year in dispute and the following year. The adjacent parcel's current assessed value was not shared.

this Board should be used for all future assessed value determinations.

Respondent contended subject's assessed value was reasonable and resulted from use of approved mass appraisal techniques. It was explained waterfront parcels are valued per waterfront foot, which Respondent indicated was typically how such parcels sell in the marketplace. Respondent offered information on four (4) sales in support of the front foot rate applied to subject. The first three (3) sales were located in subject's immediate area and the other was situated across the lake. Sale No. 1 was an improved waterfront parcel with 56.24 feet on the lake. After removing improvement values from the \$505,000 sale price, Respondent calculated a residual land value of \$325,602, or \$5,790 per front foot. Sale No. 2 was a vacant lot with 68 front feet, which sold for \$350,000, or \$5,122 per front foot. Sale No. 3 also included some improvements. After removing improvement values, a residual land value of \$753,670, or \$3,963 per front foot was calculated for the parcel's 190.17 front feet. The final sale involved an improved waterfront lot which sold for \$252,010, or an indicated land rate of \$2,026 per front foot. Respondent considered Sale No. 4 most comparable to subject because it is bisected by railroad tracks, which makes the waterfront portion of the parcel similar to subject in terms of size and shape.

Based on the above sales, Respondent concluded a base valuation rate of \$4,938 per front foot for subject, to which two (2) significant downward adjustments were applied. One was a negative 60% adjustment for subject's small size and irregular shape. The other adjustment was for an additional 50% because of subject's status as an unbuildable lot. In the end, subject was assessed at a rate of \$984 per front foot. Appellant argued the adjustment factors were arbitrary and intimated a larger discount would be more appropriate.

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, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Appellant alleged several errors and other issues related to subject's valuation. The first concerned the amount of front feet subject possesses. Appellant contended the parcel includes 100 front feet, while Respondent determined 102 feet. On this issue, the Board finds in favor of the County. Appellant provided no support for the lower front foot estimate, whereas Respondent's size conclusion was derived from the recorded subdivision plat, as well as, a re-verification effort by the mapping department. Respondent's position on this issue was better supported and will therefore be adopted by the Board.

Appellant also challenged the inclusion of dock improvements in subject's assessment. Appellant stated the dock belonged to the Army Corps of Engineers, though no supporting documents were offered. Without documentary support regarding the ownership of the dock improvements, and there being no evidence the dock contributes no value to subject, the Board is reluctant to alter subject's valuation for this factor. Appellant clearly has use of the dock, which enhances subject's value. As such, the dock should be appraised and assessed just like any other value-adding amenity.

The next issue concerned the 50% and 60% adjustment factors Respondent applied to subject in arriving at the assessed value. Appellant questioned how the factors were determined and contended the adjustments were arbitrary. As to the 50% adjustment, Respondent

explained it was a standard adjustment factor applied to all non-buildable parcels in the county. The discount factor was derived from historical sales data which measured sale price differences between standard buildable lots, and similar lots which were unbuildable. The latter category of lots typically sold for 50% of the prices paid for buildable parcels. Though the same level of detail was not provided regarding the 60% adjustment, it was presumably derived using similar techniques. On this issue, the Board finds in favor of Respondent. Appellant provided no market value information demonstrating the adjustment factors were erroneous or should otherwise be adjusted.

Appellant reported additional items which were viewed as further detriments to subject's value. One related to an increased amount of aquatic plants in the shallow areas of the lake around subject. This problem has been reportedly exacerbated by discharges from the nearby sewage treatment plant. Appellant further mentioned subject suffered from a limited access issue, which was not considered by Respondent. For much the same reason as above, the Board does not find an adjustment warranted for the increased aquatic plant life. Appellant provided no market based information to support such an adjustment. As for the access issue, the Board likewise does not find support for a further adjustment. Subject has access via Grey Way, which is owned by the city. From the Board's perspective subject suffers no access issues, so an adjustment for this factor would be improper.

Appellant's final argument was that subject's assessed value should be reduced based on a prior decision of this Board issued about five (5) years ago. The case involved a vacant parcel adjacent to subject. Because Appellant viewed the property as similar to subject, it was petitioned subject be likewise valued at \$40,000. Appellant also alleged error on the part of

Respondent for failing to maintain Board-ordered values for more than two (2) tax years. In Appellant's view, a value conclusion reached by the Board should be used in all future assessments of that particular property. The Board disagrees.

First, a Board decision from five (5) years ago involving a different parcel, was not found to be particularly helpful in determining subject's current market value. Market value evidence provided in that prior case would be stale by this time. Further, the decision applied to a different property. Most importantly, however, is that to simply adopt an old value conclusion would violate laws regarding assessment.

Idaho Code § 63-205 requires all taxable property be assessed annually at market value on January 1 of the relevant tax year. A determination of current market value necessarily requires examination of recent market data. It would be unusual appraisal practice to consider market information from five (5) or more years ago in estimating current market value. An exception might be for a rare type of property which does not often sell, which is not the case here. Subject is a rather typical non-buildable waterfront lot, of which there are many in the county. As such, there is no need to consider rather dated market price data when more recent information is available.

We turn now to Appellant's concern about the duration of a Board-ordered value. Appellant contended a value determined by the Board should remain in effect and be used for all future assessments. While the Board understands Appellant's position, the controlling statute does not extend a Board's decision indefinitely. Idaho Code § 63-3813 provides in pertinent part as follows.

In all cases which are not appealed to the district court within the prescribed time, the decision of the board of tax appeals shall be conclusive and all records

shall be corrected to comply with the decision of the board. A final decision or order of the board of tax appeals directing a market value change for taxable property that is not further appealed *shall be fixed for the current year appealed and there shall be no increase in the value for the subsequent assessment year* when no physical change occurs to the property; provided however, that annual trending or equalization applied to all properties of a property class or category with the county or a clearly defined area shall still apply (*Emphasis added.*)

The statute is clear that a market value change directed by the Board might apply to the current year appealed and the subsequent tax year. After expiration of that term, the property is to be assessed regularly under the same standards applicable to other property. The Board finds no issue with Respondent's application of the above statute.

Respondent provided four (4) sales to support subject's assessed value, three (3) of which were located in the immediate area. Only one (1) of the sales was vacant, but Respondent calculated residual land values from the others by removing the value of the associated improvements from the respective sale price. The indicated land prices on a front foot basis ranged from \$2,026 to \$5,790 per front foot. Subject's base front foot rate was \$4,938 per front foot, to which a 50% and a 60% adjustment were applied. The result was an assessed land value of \$100,382, or \$984 per front foot.

In appeals to the Board, the burden rests with Appellant to prove error in subject's valuation by a preponderance of the evidence. The burden of proof standard is located in Idaho Code § 63-511. In this particular instance, the burden was not satisfied. Appellant offered no market value evidence to counter that which was offered by the County. Likewise, Appellant failed to adequately support an adjustment for the other issues raised. Respondent's value conclusion was found to be reasonable and well supported.

Based on the above, the decision of the Bonner County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 13th day of February, 2014.