

BEFORE THE IDAHO BOARD OF TAX APPEALS

TRENT AND DARLENE ANDERSON,)	
)	
Appellants,)	APPEAL NO. 15-A-1018
)	
v.)	FINAL DECISION
)	AND ORDER
BONNER COUNTY,)	
)	
Respondent.)	
_____)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Bonner County Board of Equalization modifying the protest of valuation for taxing purposes of property described by Parcel No. RP000890000050A. The appeal concerns the 2015 tax year.

This matter came on for hearing October 6, 2015 in Sandpoint, Idaho before Board Member David Kinghorn. Owner Trent Anderson represented Appellants. Bonnie Bersheid represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns the market value of an improved residential property.

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

FINDINGS OF FACT

The assessed land value is \$501,700, and the combined value of the improvements is \$133,520, totaling \$635,220. Appellant agrees with the improvements' valuation, however, contends the correct land value is \$270,000, resulting in a total value of \$403,520.

The subject property is .528 acre waterfront parcel improved with a 1,728 square

foot residence constructed in 1992. The lot enjoys 100 front feet on the east side of Priest Lake. Other improvements include a couple small outbuildings, extensive wood decking, and some boating-related installations. Subject is located in the 1st Addition Diamond Park subdivision in Coolin, Idaho.

Appellants described subject as a difficult lot in terms of steepness and unstable soils. Appellants estimated roughly 50% of the lot is unusable. The residence was noted to sit approximately 20 feet above the water, which was the only available building site on the lot. Appellants further explained subject's waterfront is rocky, with no sandy beachfront. Access to the water from the residence is via a long stairway cut into the slope of the lot. In Appellants' view, subject's steep topography and difficult water access rendered the parcel less desirable than other lakefront lots with relatively flat topography, white sandy beaches, and which are capable of supporting large residential structures near the water's edge. Photographs depicting subject's land and improvement features were provided.

Appellants challenged Respondent's use of a uniform front foot value rate to assess all lakefront parcels. Appellants argued the uniform rate failed to take into consideration notable physical differences between parcels on the diverse Priest Lake lakefront. Appellants explained, historically, steep and rocky parcels typically sell for less per front foot than flat and sandy parcels. In all, Appellants contended Respondent's methodology resulted in an inaccurate, excessive, and arbitrary assessment of subject.

Appellants offered information concerning lakefront sales which occurred during

2014. A somewhat unique feature of Priest Lake is some of the lakefront lots are owned by the State of Idaho and are leased to lessees who are permitted to build residential and other improvements on the lots. In August 2014, the State held an auction involving 60 of these leased lots. An independent fee appraisal of the lots was commissioned, only a small portion of which was made available at hearing. The appraisal included a topography rating for each of the auction lots, which was used in the analysis to determine the value of the lots. The topography rating considered for each lot the distance between the shoreline and building site, the distance between the access road and the building site, shoreline qualities, and lake depth qualities. Topography ratings for the auction lots ranged from 7 to 16, with 16 representing the highest valued parcels. Appellants remarked the higher rated sites represented flat sandy lots. The appraisal report's value conclusions were used to set the minimum bid price at the auction. Sale prices ranged from roughly \$526 to \$4,230 per front foot. All except one (1) of the 60 lots offered at the auction were purchased, with 57 of the sale lots being purchased by the lessee. In each instance the minimum bid price was the same as the final sale price.

Appellants explained the Bonner County Board of Equalization (BOE) set the assessed values of the auction lots at their respective purchase prices. The BOE did not similarly reduce other lakefront values based on the auction price information, which Appellants argued created a separate class of lakefront parcels, and thus different assessment treatment in violation of the Idaho Constitution's requirement of uniform tax treatment of parcels within the same property class. Focusing on the auction lots with the

same site rating as subject, which Appellants estimated at 9, Appellants determined a value rate of \$2,700 per front foot for subject's 100 foot lot.

Respondent contested Appellants' use of the auction sales as the basis for reducing subject's land value. Respondent argued the auction prices were below market value. According to Respondent, the fee appraisal used some dated sales, as well as, waterfront sales from different lakes in arriving at the appraised values of the auctioned Priest Lake lots. Respondent also remarked only two (2) of the auction lots received more than one (1) bid, which was reasoned to demonstrate there was little competition among buyers. Respondent also characterized the State of Idaho as being under compulsion to sell and the buyers as highly motivated and anxious to purchase the land sitting under their residences. Respondent further contended the fee appraisal allocated too little value to the land component and too much value to the improvements, resulting in per-front-foot rates below market value. As a result, Respondent did not consider any of the auction sales in determining subject's assessed value.

Respondent provided information concerning nine (9) waterfront sales of Priest Lake parcels. The sales occurred during late 2013 and throughout 2014. The sale properties were situated all over the lake, with the majority located on the more developed west side of Priest Lake. Two (2) of the sales were vacant parcels, one (1) of which was located near a river outlet. These vacant lots, both with mostly flat topography and building sites near the water's edge, consisted of 110 and 50 waterfront feet. Sale prices were \$538,000 and \$260,000, or \$4,891 and \$5,200 per front foot, respectively. The remaining sales

involved improved parcels, one (1) of which was noted to have steep topography similar to subject. Sale prices ranged from \$445,000 to \$1,600,000. After extracting assessed values of the associated improvements, Respondent calculated land value residuals between \$377,650 and \$1,338,240, or from \$5,106 to \$6,965 per front foot. Based on these sales, Respondent determined to use a value rate of \$4,887 per front foot, which was applied to the first 100 front feet of each parcel on Priest Lake.

Appellants challenged the comparability of the sales used in Respondent's analysis. Photographs of the sale properties were provided, which depicted relatively flat lots with sandy beachfronts and large building sites near the water. Regarding the one (1) sale with steep topography, Appellants noted the sale actually involved two (2) lots with two (2) separate residences, which were subsequently combined into a single parcel. Appellants argued Respondent placed too little value on the improvements involved in this sale, thereby inflating the land value and corresponding front foot rate.

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.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. 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.

The three (3) primary methods for determining market value include the cost approach, the income approach, and the sales comparison approach. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is commonly valued using the sales comparison approach.

Appellants raised two (2) primary arguments regarding the current assessment of the subject property. The first concerned the methodology used by Respondent in assessing each Priest Lake waterfront parcel at the same per-front-foot rate. The second argument centered on whether the BOE’s decision to set the assessed land values of the auction sales at their respective purchase prices, while not affording similar assessment treatment to the other lakefront parcels, violated the constitutional mandate of uniform taxation. Each argument will be addressed in turn.

The Board appreciates the difficulty faced by Respondent in determining market values for waterfront as diverse as Priest Lake. However, it is precisely this well recognized diversity among the Priest Lake waterfront parcels which undermines Respondent’s position that a uniform valuation rate was proper in assessing these parcels. Such an approach ignores the unique physical characteristics of individual waterfront lots. A fundamental principle of appraisal is consideration of a property’s actual physical

characteristics. Indeed, property, by its very nature, is unique. It follows then that a parcel's physical characteristics should feature prominently in measuring its market value.

Respondent argued the nine (9) sales used to set Priest Lake values for 2015 did not demonstrate price fluctuations for different types of waterfront. In other words, individual lot characteristics were not relevant. A closer look at the sales, however, indicates otherwise. Eight (8) of the sales relied on by Respondent involved lots having relatively flat topography, sandy beachfronts, and large building sites near the water's edge. That the sale price range of these generally homogenous properties was somewhat tight is not surprising. In fact, such a result would be expected.

Respondent noted one (1) of its sales involved a steep lot and argued the fact it sold at a similar price per front foot as the other flat parcels was conclusive evidence there was no market value difference between the two (2) lot types. The Board's concern with this assertion is Respondent's reliance on a single sale; a sale which reportedly involved two (2) lots with two (2) residences, later combined into one (1) parcel. Subject, by contrast is a single lot capable of supporting only one (1) residence. Further, relying on a single sale as the basis for such a broad-reaching value conclusion is inherently unreliable. As the Court has recognized, "[i]n any single individual transaction there are many variables which are dependent upon the peculiar aspects of the transfer and which affect the price agreed upon by the parties. Market value, therefore, is generally established by numerous sales of the same or comparable property" *Gillingham v. Stadler*, 93 Idaho 874, 878, 477 P.2d 497, 504 (1970). This position is also well supported by recognized appraisal

practice. In all, the Board found inadequate support for Respondent's use of a single valuation rate for all Priest Lake waterfront parcels.

More concerning to the Board, however, was the BOE's disparate valuation treatment of the auction lots compared to the non-auction lakefront sites. The land value for each auction lot was set at the individual sale price, while the non-auction lots remained at the higher value determined by the assessor. This action resulted in two (2) separate groups of lakefront parcels within the same property class being assessed using entirely different valuation methods. The Idaho Constitution does not permit such a result.

Article VII, § 5 of the Idaho Constitution provides in pertinent part, "[a]ll taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations and shall secure a just valuation for taxation of all property, real and personal"

There was some concern regarding whether the auction prices were at market value. In particular, Respondent questioned some of the analysis in the fee appraisal report commissioned by the State of Idaho. Unfortunately, the Board is unable to address this issue because a full copy of the appraisal was not furnished for our review. Rather, the evidentiary record included only a small excerpt from the report showing which lots sold at the auction, and their respective sale prices and site ratings. Making a market value determination concerning the auction prices, however, is not the relevant inquiry in a case such as this where subject was assessed differently than the 59 lots sold at auction.

“The requirement that all property be assessed at its actual cash value is secondary to the constitutional mandate of equality of taxation. Where certain property is assessed at a higher valuation than all other property, *the court will enforce the requirement of uniformity by a reduction of the taxes on the property assessed at the higher valuation*, if it be shown that the difference is the result not of mere error in judgment, but of fraud or of *intentional and systematic discrimination*.” (Emphasis added). *Washington County v. First Nat’l Bank*, 35 Idaho 438, 444, 206 P. 1054, 1056 (1922). Subject was assessed substantially higher than all the auction lots, which can only be remedied at this stage by reducing subject’s assessment.

According to Idaho Code § 63-511, Appellants bear the burden of establishing error in subject’s valuation by a preponderance of the evidence. The Board finds the burden of proof satisfied in this instance.

Based on the above, the decision of the Bonner County Board of Equalization is reversed, thereby lowering subject’s land value to \$270,000, which includes the value attributable to the onsite improvements.

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, REVERSED setting the assessed land value at \$270,000, with no changes to the total improvements’ value of \$133,520, resulting in a total value of \$403,520

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 4th day of January, 2016.