

BEFORE THE IDAHO BOARD OF TAX APPEALS

ARNOLD BERESFORD AND SUSANNE	)	
TUSON,	)	
	)	APPEAL NO. 15-A-1169
Appellants,	)	
	)	FINAL DECISION
v.	)	AND ORDER
	)	
BONNER COUNTY,	)	
	)	
Respondent.	)	
	)	

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**RESIDENTIAL PROPERTY APPEAL**

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. RP000890000040A. The appeal concerns the 2015 tax year.

This matter came on for hearing October 27, 2015 in Sandpoint, Idaho before Board Member David Kinghorn and Hearing Officer Cindy Pollock. Appellants Arnold Beresford and Susanne Tuson were self-represented. Bonnie Bersheid represented Respondent.

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

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

**The decision of the Bonner County Board of Equalization is modified.**

FINDINGS OF FACT

The assessed land value is \$501,700, and the improvements' value is \$61,500, totaling \$563,200. At hearing, Appellants requested the land value be reduced to \$260,755, with no change to the value of the improvements, for a total assessed value of \$322,255.

The subject property is a .507 acre waterfront parcel with 100 front feet on the east side of Priest Lake. The parcel is improved with a cabin, dock, and outbuildings, the values of which were not appealed here.

Appellants described subject as having a steep and rocky slope with little to no useable beachfront. Further the improvements could only be built at the rear of the property because of the steep topography. Subject's elevation was described as 60 feet from the lake up to the residence. Photographs of subject's waterfront, topography, and access trail were provided to demonstrate the steepness. Appellants also provided photographs of the sales used by Respondent in its analysis in order to demonstrate the difference in topography between the sales and subject.

Appellants explained most of the commercial development has occurred on the west side of the lake where there is also a highway which provides year-round access. The east side, where subject is located, was described as less developed and generally lacking amenities.

Appellants maintained subject's unique characteristics were not taken into consideration by Respondent. Further, Appellants explained the Bonner County Board of Equalization (BOE) accepted the sale prices of approximately fifty-nine (59) leased sites which sold at auction in August 2014. Some of the auction sales were deemed by Appellants as a better match to compare with subject, as they also had similar topography characteristics.

Appellants argued the leased sales were "arm's length" as they were appraised by

professional fee appraisers prior to going up for auction. The individual appraised values were used as the minimum bid requirements for each auction property. The BOE adjusted the assessed values of the auction sites to the actual sale prices. Appellants concluded if the values were accepted by the BOE they should also be used as supportive data to determine subject's assessed value.

Appellants looked to two (2) auction property sales to compare with subject which were close in proximity and with similar topography. The properties were rated an "11" on a topography chart used by the appraisal report to set values of the auction lots. Appellants then took ten (10) auction sales that were all rated an "11" and averaged the front foot value to derive a \$2,607.55 per front foot value. Using this value for subject's 100 front feet equated to a land value of \$260,755.

Respondent explained the entire lake was trended for the 2015 tax year. Respondent maintained due to the wide variety of lot sizes, beach types and location all selling in a similar range they were all assessed at the same front foot rate. There were nine (9) sales used to set the base front foot rate. Seven (7) of the sales occurred in 2014, with two (2) taking place in late 2013. Of the nine (9) sales, two (2) were vacant land sales. After removing the assessed improvement values for the improved sales, Respondent calculated land residuals between \$5,103 and \$6,965 per front foot.

The two (2) vacant parcels had sale prices of \$4,891 and \$5,200 per front foot. One (1) of the vacant sales contained 110 front feet and was located at the outlet on the south end of the lake. Respondent considered this area of the lake less desirable than the main

lake, as it is on a spillway with shallow water and limited access. Respondent explained the subject land is valued at \$4,887 per front foot, which is lower than this less desirable lot's sale price.

Respondent explained the auction sales were considered not valid sales and therefore not used to set 2015 land values. It was explained the auction happened because the State was under compulsion to sell the lots to fulfill its obligation to the endowment fund and the lessees were the purchasers of the auction lots. Respondent stated the purchasers had extra motivation to own the land under their homes. Respondent concluded this was not typical motivation and therefore the auction sales were not considered valid market sales.

#### 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.

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. In a unique way, each approach considers the available information on recent comparable sales.

Appellants argued the sales included in Respondent's analysis did not depict a true representation of subject's topography. The sales were shown to involve almost all level lots with sandy beach fronts. Appellants suggested this was not a true comparison when looking at subject's location, and the steep and rocky waterfront topography. Respondent maintained the sales data did not show any notable price differences for location, physical characteristics or topography.

Appellants suggested the auction prices be used in determining subject's land value. In the record before us, we do not find these sales to be arm's-length transactions. The only bids received on each auction lot were those of the lessees; there were effectively no outside bidders. Although, we do understand an independent fee appraisal was done to set the minimum auction bids, we were not provided the full appraisal to analyze. We had only excerpts of the appraisal. Respondent noted the appraisal used sales from as far as ten (10) years back and even sales from other states. In the present situation we are unable to rely on second hand information regarding the auction appraisal.

Respondent provided nine (9) lakefront sales which were located on both sides of Priest Lake. Two (2) of the sales were vacant parcels, with the remaining being improved

properties. Respondent extracted the values of the improvements to determine the indicated front foot value. A rate of \$4,887 was then assigned to all front feet on Priest Lake with the exception of some outlet properties. Without being able to see what improvements were extracted in each individual property, the Board found it difficult to conclude the residual land values are accurate.

The Board does not agree that just because one (1) sale of an improved property located on a steep slope sold at a price similar to flat lots that buyers are willing to pay the same price regardless of topography. The Board's experience tells us otherwise.

Respondent's analysis did not take into consideration the physical characteristics and challenges facing the subject lot. Further, we note the per-front-foot sale prices were widely diverse. Some of this may be due to the extraction method, the frontage sizes, or some other factor. The sale lots contained between 50 and 253 front feet, this on its own would yield different price rates. There are too many unknown factors in the record for us to agree with applying the same price per front foot on a flat sandy waterfront as on a rocky, steep frontage.

In accordance with Idaho Code § 63-511, the burden is with the Appellants to establish the county valuation is erroneous by a preponderance of the evidence. Appellants did not provide enough market evidence for the requested assessed value, however we did find other evidence which supported a reduction. In all, we found consideration should be given for the steep and rocky topography.

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

modified, lowering subject's land value to \$379,525, 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, MODIFIED setting the assessed land value to \$379,525, with no changes to the total improvements' value of \$61,500, resulting in a total value of \$441,025.

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 24<sup>th</sup> day of December, 2015.