

BEFORE THE IDAHO BOARD OF TAX APPEALS

ESTATE OF LAWRENCE GUMENSKI,)	
)	
Appellant,)	APPEAL NO. 14-A-1012
)	
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 denying the protest of valuation for taxing purposes of property described by Parcel No. RP0004400A0010A. The appeal concerns the 2014 tax year.

This matter came on for telephonic hearing September 29, 2014 before Hearing Officer Cindy Pollock. Fawn Stella represented Appellant at hearing. Assessor Jerry Clemons 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 affirmed.

FINDINGS OF FACT

The assessed land value is \$385,818, and the improvements' valuation is \$40,820, totaling \$426,638. Appellant contends the correct land value is \$304,000, and the improvements' value is \$35,000, totaling \$339,000.

The subject property is a .611 acre parcel with 132.24 front feet on Lake Pend Oreille in the Cape Horn Estates. The parcel is improved with a 616 square foot dwelling

built in 1975.

Subject is somewhat unique where it borders the line between Kootenai and Bonner Counties. In addition to the subject, which is located in Bonner County, Appellant owns six (6) lots on the Kootenai County side. Subject, together with the six (6) Kootenai lots, are presently in an estate which cannot be closed until the properties are sold.

Subject, together with the additional lots, were listed for sale in 2013 for \$425,000. Appellant offered testimony at hearing that the six (6) Kootenai County lots were being sold for a total of \$104,000 and the subject for \$180,000. The sale had not actually closed as of the hearing date. The associated Real Estate Purchase and Sale Agreement, dated in September 2014, was submitted into evidence.

Appellant described the subject dwelling and deck as being in poor condition. Further, Appellant testified subject's waterfront is inaccessible without having a 4-wheel drive vehicle. The switchbacks were described as "steep and severe", thus making it impossible to get a boat and trailer down to the water. Respondent reported all the parcels in the Cape Horn neighborhood have a steep and rocky beachfront, with many parcels having no beach access.

Appellant provided Multiple Service Listing information sheets on nine (9) 2013 sales. Some of the sales were for vacant land and some were for improved properties. The sale properties contained between 100 and 200 feet of water frontage, with the sites ranging in size between .3 and 6.08 acres. Sale prices ranged between \$150,000 and \$315,000.

Respondent questioned the comparability of some of the sales included in Appellant's exhibits. Of the nine (9) properties provided, Respondent only regarded two (2) as comparable to subject. The remaining sales were described as being inferior to subject. One (1) sale was noted to be a bank sale, one (1) contained wetland building restrictions, one (1) had a slough front which is valued lower than lake frontage, and one (1) was not a waterfront property. Respondent noted the two (2) sales it regarded as similar to subject had been assessed with per front foot values of \$2,592 and \$2,628.

Respondent valued subject's land and improvement components separately and provided sales in support of both values. Four (4) 2013 improved sales were used to support the value assigned to subject's improvements. The sale residences ranged in size from 228 to 1,216 square feet. With sales price rates between \$68.37 and \$82.33 per square foot. The sale residences were considered by Respondent to be the same average quality of construction as subject. Subject's improvements were assessed at \$40,820, or \$66.27 per square foot.

The subject land was valued at \$372,818, or \$2,819 per foot for 132.24 front feet. In support of the land's appraisal, Respondent offered information on four (4) vacant waterfront sales. The parcels' water frontage ranged from 82.60 to 127 front feet and the sale prices were between \$1,969 and \$3,322 per front foot. Sale No. 1 contained 127 front feet and was located .4 miles to the east of subject in the same subdivision. The property sold for \$250,000, or \$1,969 per front foot. This sale property had a 35% downward adjustment in its assessment for slope and the steep drop off to the water.

Photographs were provided to demonstrate the difference between this sale parcel and subject. The remaining sales were located on Lake Pend Oreille and were described as having steep or cliff-like waterfront.

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, 2014 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) generally accepted approaches to value, the sales comparison approach, the cost approach, and the income approach. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). The sales comparison approach is typically relied on in valuing residential properties, as was done in this case.

Appellant provided sales information for the Board's consideration, both related to

the subject property and to other comparison properties. The Board appreciated the sales information, however, we found there were comparability issues between the sold properties and subject. Specifically, Appellant provided the sales information with only limited details as to location or the similarities or differences between the sold properties and subject. According to Respondent many of the sale properties were characterized as not comparable to subject. Appellant's two (2) waterfront sales were a .43 acre vacant property with 100 front feet that sold for \$315,000, and the other was a .30 acre vacant waterfront property which sold for \$265,000. This latter sale contained 110 front feet. Subject had more effective frontage at about 132 front feet and was assessed for about \$385,000.

Subject was in the process of being sold together with neighboring parcels located in Kootenai County. The properties were all listed for sale in mid-2013 with a total asking price of \$425,000. In the spring of 2014, or after the 2014 assessment date, the asking price was reduced to \$339,000. At some later time in 2014, subject and the other parcels had a pending sale at \$284,000.

As indicated above, the effective date of valuation for the 2014 tax year is January 1, 2014, and the transaction involving subject had not taken place by this time. The related evidence of value, including the timely listing information, is not sufficient evidence for the reduction Appellant has requested. Additionally, it is complicated to accurately consider the values associated with all the adjoining parcels. We did not find in the record any appraisal like consideration of the values attributed to the subject versus the lots located

in Kootenai County. Not enough details were provided to ascertain the fair value of each individual parcel. It further appeared the pricing for subject and the other lots may show signs of a distressed sale. For instance the pricing reduction of approximately \$140,000 over a relatively short time span is not typical.

Respondent provided both improved and vacant land sales to support subject's assessed value. Timeliness of the sales information and comparability with the subject were deliberate considerations. Although the sales information was found to be somewhat thin in support of subject's land value, we do not find where Appellant provided a better analysis.

In appeals to this Board, the burden is with the Appellant to establish by a preponderance of the evidence the county valuation is erroneous. Idaho Code § 63-511. We find in this case that burden was not satisfied. The decision of the Bonner County Board of Equalization will therefore be 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 17th day of December, 2014.