

BEFORE THE IDAHO BOARD OF TAX APPEALS

TVC NORTHWEST LLC,)	
)	
Appellant,)	APPEAL NO. 15-A-1126
)	
v.)	FINAL DECISION
)	AND ORDER
CANYON COUNTY,)	
)	
Respondent.)	
)	
_____)	

COMMERCIAL PROPERTY APPEAL

This appeal is taken from a decision of the Canyon County Board of Equalization modifying the protest of valuation for taxing purposes of property described by Parcel No. 309710120. The appeal concerns the 2015 tax year.

This matter came on for hearing November 10, 2015 in Caldwell, Idaho before Board Member Leland Heinrich. Attorney William Russell appeared at hearing for Appellant. Sr. Commercial Appraiser Mike Cowen represented Respondent.

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

The issue on appeal concerns the valuation of an improved commercial property.

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

FINDINGS OF FACT

The original total land value was \$1,498,880, which the Canyon County Board of Equalization (BOE) reduced to \$854,420. Appellant contends the correct total land value is \$53,692.

The subject property is a 35.47 acre rural agricultural parcel located near Nampa, Idaho. In prior years the entire tract was assessed as land actively devoted to agriculture. For 2015, Respondent determined 23.9 acres of subject was actively being cultivated. As such,

Respondent valued the 23.9 acres at the agricultural assessment rate and the remaining acreage at full commercial value. The BOE determined 5.38 acres encompassing the southern portion of subject were unuseable, so the BOE classified it as waste and assigned zero value to the area. The remaining 6.19 acres, situated in the northwest corner of the parcel, were assessed as commercial property at a value of \$817,850. The 23.9 cultivated acres were assessed at \$36,570.

Noting the historical assessment treatment of subject as an agricultural parcel, Appellant contended changing the land categories for the southern and northwestern portions of subject from agricultural to commercial when no change to the property occurred, was improper. Appellant agreed with the BOE's decision to classify the southern portion of subject as waste, and petitioned the same classification be applied to the northwest portion. According to Appellant, the northwest section of the parcel is not suitable for farming. Specifically, Appellant claimed the higher elevation prevents irrigation water from reaching the northwest corner. Additionally, Appellant stated a large amount of construction-related debris is scattered throughout the northwest corner, which further complicates any agricultural pursuit. Due to these conditions, Appellant contended subject's northwestern corner was waste land and should be valued at zero.

Respondent disputed Appellant's claim regarding the agricultural viability of both the southern and northwest portions of the property. Respondent inspected subject on two (2) separate occasions during 2015. Photographs were taken during the second inspection. The photographs depicted a relatively level topography throughout the entire 35.47 acre tract. Respondent also provided aerial photographs of subject from 2006 and 2007. The 2006

photograph appeared to show the entire parcel was cultivated. The 2007 photograph, on the other hand, showed the southern and northwestern portions of the property not being actively farmed. Respondent stated the agricultural exemption should have been removed on the non-productive portions of subject in 2007, however, such change was missed. Respondent explained subject's agricultural status was reviewed for the current tax year because Appellant purchased subject in 2014 and submitted a new *Agricultural Eligibility Determination Form* for 2015. The form indicated 23.9 cultivated acres, which squared with Respondent's observations regarding the area of subject actively devoted to agriculture. Because subject is situated near a vibrant commercial development area, the remaining acreage was valued as commercial land.

Offered in support of subject's commercial valuation were four (4) land sales from 2013. The sales were all located in subject's immediate proximity. Lot sizes ranged from 1.03 to 13.53 acres, and sale prices were between \$16.72 and \$9.54 per square foot. Respondent regarded Sale No. 3, which sold for \$9.54 per square foot, as most comparable to subject. Respondent determined a value of \$9.50 per square foot for subject, which Respondent argued should be applied to both the northwest corner and the southern portion of subject.

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.

The central issue in this appeal centers on the proper classification of the 6.19 acre northwest corner of subject. Appellant contended the northwest section should be considered

waste and valued at zero. Respondent argued northwest section was properly assessed as commercial acreage because it did not qualify for an agricultural exemption. Respondent further contended the BOE erred in classifying the southern portion as waste instead of commercial land.

We begin with the position all non-exempt property is taxable. See Idaho Code § 63-203. The inquiry then turns to whether an exemption applies; specifically, the agricultural exemption in this case. Idaho Code § 63-604 provides in pertinent part,

(1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; or

(ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or

(iv) It is in the cropland retirement or rotation program.

The larger 23.9 acre section of subject certainly satisfies the definition of land actively devoted to agriculture. The remaining southern and northwest portions of subject, on the other hand, do not qualify because they are not used for at least one of the above-described agricultural pursuits, but rather sit idle.

Acknowledging the northwest corner of subject did not qualify for the agricultural exemption, Appellant petitioned the area be categorized as waste and assessed zero value. We disagree. Whether the northwest corner is capable of being cultivated is not determinative. For 2015, the northwest corner was unquestionably not cultivated. This fact, however, does not mean the ground is worthless. Rather, it simply means the section was not farmed. While the area might not be best suited for agriculture, it could certainly be used for another purpose. In this case, due to subject's close proximity to active commercial development, the most appropriate alternate use is likely commercial. The *waste* designation is typically reserved for those portions of a property which cannot be used for any meaningful purpose, whether by law or as a result of the condition of the land. Such is not the case here. The northwest corner of subject is flat and easily accessible, and there are no other known conditions affecting potential alternate uses of the property. Given the facts in this case, it would be improper to classify the northwest portion as waste.

Appellant's argument it was improper to have changed subject's land categories when no physical change to, or use of, the parcel occurred, is misguided. Respondent is tasked with valuing all taxable property as it stands on the assessment date. Idaho Code § 63-208. This includes correcting errors when discovered during the assessment process. In this case, the northwest corner of subject should have lost the agricultural exemption years ago. That Respondent only discovered and corrected the error for the current assessment was not improper nor otherwise arbitrary or capricious, as charged by Appellant. Rather, Respondent was required to change subject's property record when the error came to light. We find Respondent actions in this regard proper.

As the northwest corner does not qualify for an exemption, it must be assessed. 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. The three (3) primary methods of 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). Vacant land is commonly valued using the sales comparison approach.

Respondent offered information concerning four (4) vacant land sales from 2013 in support of the commercial valuation of the subject’s northwest corner. The sales were located in subject’s immediate proximity and were otherwise regarded by Respondent as comparable to subject. Sale prices ranged from \$9.54 to \$16.72 per square foot. Respondent determined a value rate of \$9.50 for subject.

Respondent also argued the BOE erred in placing the southern portion of subject in a waste category. Respondent contended the area should be assessed at market value as commercial land, and requested this Board make such a finding. Respondent’s request amounts to an appeal of the BOE’s decision, however, Respondent did not file an appeal. For purposes of due process and the notice requirements contained therein, it would be improper to consider Respondent’s request at this stage. As a result, the Board will not disturb the BOE’s

findings regarding the southern portion of subject.

Idaho Code § 63-511 requires Appellant prove error in subject's assessed value by a preponderance of the evidence. The burden of proof was not satisfied in this instance. Respondent provided the only evidence of market value, which generally supported subject's valuation. Therefore, the decision of the Canyon County Board of Equalization is affirmed.

FINAL ORDER

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

DATED this 8th day of March, 2016.