

BEFORE THE IDAHO BOARD OF TAX APPEALS

WAGNER TRUST,	)	
	)	
Appellant,	)	APPEAL NO. 15-A-1216
	)	
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. RP59N04W030670A. 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. Thomas Wagner appeared at hearing for Appellant. Jerry Clemons 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 \$608,863, the improvements' value is \$128,780, and other improvements' value is \$6,630, totaling \$744,273. Appellant contends the correct land value is \$431,800, the improvements' value is \$89,920, and other improvements' value is \$4,650, totaling \$526,370.

The subject property is a .84 acre waterfront parcel with 127 front feet on the east side of Priest Lake. The parcel is improved with a 2,136 square foot residence, docks, and various

outbuildings.

In August 2014 there was an auction involving 60 lakefront parcels, of which 59 of the lots sold. The auction lots were owned by the State of Idaho and were previously leased to various individuals who were allowed to construct cabins and other improvements on the parcels. Prior to the auction, an independent appraisal was commissioned and the individual value conclusions contained therein were used to set the minimum auction bid prices. Each parcel sold at the minimum bid price, and the purchasers were mostly the lessees. The Bonner County Board of Equalization (BOE) set the assessed values of the auction lots at the individual purchase prices.

Appellant requested subject be assessed and valued fairly amongst neighboring properties. Appellant explained an auction took place and the owners of each auction sale had their assessed land values reduced to the sale price paid at an auction. In all, Appellant contended many of the auction properties are located in subject's immediate area and contain assessed values much lower than that of subject.

Appellant offered three (3) auction sales in record to compare with subject. Sale prices were \$3,427, \$4,030, and \$4,698 per front foot. Subject has an assessed land value of \$4,692 per front foot. Appellant argued the auction lots were appraised by professional fee appraisers prior to auction. Appellant noted the auction lots were assessed at their auction purchase prices and argued they should also be used as comparable sales to determine subject's land value.

Respondent explained the entire lake was trended for the 2015 tax year. Respondent concluded due to the wide variety of lot sizes, beach types and location all selling in a similar range all parcels on the lake should be assessed at the same front foot rate. Nine (9) sales were 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 residual rates 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 auction sales were not considered valid sales and therefore were not used to set 2015 land values. Respondent commented the auction took place 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 underneath their homes. Respondent concluded this was not typical motivation and therefore the auction sales were not considered valid market sales.

Respondent explained subject was inspected in May 2014 as part of the 5-year inspection cycle. It was discovered subject was sketched improperly and the improvements were found to contain an additional one-half ( $\frac{1}{2}$ ) story above the main level. This finding caused subject's finished living area to increase from 1,492 to 2,136 square feet, which then increased the assessed value upward by \$28,000, for a total of \$118,020 or \$55 per square foot. It was further found a detached garage was missing and after adding this to the record the assessment increased by an additional \$13,120.

In support of subject's assessed improvements value, Respondent referenced four (4) 2014 improved residential sales. The sale properties were described as being similar to subject. Sale prices ranged from \$114,957 to \$185,180, or between \$55 and \$80 per square foot after

land values were extracted. Subject is assessed at \$55 per square foot.

### 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.

Typically a property is valued as a whole, however, in this case both parties discussed and analyzed the land and improvement components separately. Appellant challenged the improvements' valuation, however, did not provide sufficient support for the requested value reduction.

However, moving to the land value, both parties presented sales information on recent Priest Lake waterfront sales to substantiate each party's requested values. Appellant submitted information regarding three (3) sales which occurred during an August 2014 auction. The three (3) auction lots presented by Appellant contained sale prices between \$3,427, and \$4,698 per

front foot.

Respondent contested the use of auction sales. Respondent explained the associated appraisal used to set minimum auction bid prices, considered some older sale information, as well as some properties situated on different lakes.

The Board agrees generally auction sales do not represent the best evidence of market value. The Board however, was concerned with the different assessment treatment between the auction lots and the non-auction lots. The lots which sold at auction were assessed at their auction prices. Subject, and the other non-auction lots, were assessed by using different sales.

We find the decision to assess the auction lots at their sale prices and not afford similar treatment to the non-auction lots created two (2) separate classes of residential lakefront property in violation of the Idaho Constitution. “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 similar auction lots. For this reason we must reduce subject’s assessed land value.

Per Idaho Code § 63-511, in appeals to this Board, the burden is with the Appellant to establish subject’s valuation is erroneous by a preponderance of the evidence. The Board finds with regards to the land value the burden was met. With regards to the improvements’ valuation,

the Board did not find convincing evidence to support the requested value. Based on the above, the decision of the Bonner County Board of Equalization is modified to reflect a reduction in subject's total land value to \$508,000, with no change to the combined improvements' valuation of \$135,410, for a total assessed value of \$643,410.

#### 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 to reflect a decrease in subject's total land value to \$508,000, with no change to the combined improvements' valuation of \$135,410, for a total assessed value of \$643,410.

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 Appellant.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 19<sup>th</sup> day of January, 2016.