

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF GLENN) APPEAL NO. 13-A-1170
AND VIVIAN WAY from a decision of the)
Benewah County Board of Equalization for tax) FINAL DECISION
year 2013.) AND ORDER

HOMESITE APPEAL

THIS MATTER came on for hearing October 24, 2013, in St. Maries, Idaho before Board Member Linda Pike. Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision. Appellants Glenn and Vivian Way appeared at hearing. Assessor Donna Spier appeared for Respondent Benewah County. This appeal is taken from a decision of the Benewah County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RP005500110540A.

The issue on appeal is the market value of a rural homesite that is contiguous with forest land.

The decision of the Benewah County Board of Equalization is modified.

FINDINGS OF FACT

Subject’s assessment consists of 8.5 acres of forest land valued at \$1,224¹, a 1-acre homesite valued at \$5,500, and improvements valued at \$1,080, totaling \$7,804. Appellants request the total value be reduced to \$3,804 based upon cancelling the homesite assessment.

The subject property is a sparsely timbered subdivision lot located about 20 miles southeast of St. Maries, Idaho. The 9.5 acre parcel is improved with an open-sided pole

¹ This forest land value is based on the bare land and yield option and is listed on the assessment roll using Category 7. See Idaho Code Sections 63-1703 and 63-1706.

cover for an RV and some graveled access. The subdivision is relatively primitive.

Appellants purchased subject at a tax deed auction in August of 2011 for \$11,600, plus delinquent taxes, interest, and penalty.

Prior to some limited clearing and access development, and the construction of the pole structure, subject was solely assessed and valued as “forest land” (Idaho Code § 63-1701). Respondent reported one (1) acre was removed from the forest land valuation due to the start of some development on subject. This is reportedly the county’s standard practice for all land in an exempt status.² In connection with this practice, Respondent referred to Property Tax Administrative Rule 645. Appellants believed the one (1) acre size determination was arbitrary and contended the actual area so used should be measured.

Appellants explained they had not cleared land areas so much as they had opened them up for tree growth. It was reported there was not a cleared acre anywhere on the parcel, nor was there an area cleared enough for a residence. It was further noted the pole structure is situated immediately adjacent to some trees. Consequently, Appellants found the classification of one (1) acre as a homesite was unreasonable. On appeal, Appellants requested the added homesite value be removed from the assessment and that the land’s valuation revert back to the forest land value.

Respondent acknowledged a full acre had not been cleared by Appellants, however maintained a homesite acre can still have trees growing on it. Included in the homesite assessment was \$1,500 for developed access. Respondent’s position held that once

² The special statutory valuation used in the assessment of qualifying forest land amounts to a *de facto* exemption where it is not listed among the Title 63, Chapter 6 exemptions.

exempt land was put to another use, for example where some development occurred, it was no longer exempt.

It was further explained homesite improvements in Benewah County vary greatly. Some homesites consist solely of an outhouse and outbuilding, or involve use of an RV as a residence. Respondent reported subject's area was more developed for recreational use, but noted there were also some year-round residents in the area. Respondent reported subject was also improved with an outhouse, but that it was the construction of the pole structure which triggered the homesite assessment. It was further clarified the one (1) acre homesite was not assessed as being cleared, but as being developed.

Due to the condition of the off-site access to subject, the homesite was assessed using a "poor" grade rating. There was only one (1) recent sale in the area. This property was along a county road and had an "average" grade rating. The undeveloped ten (10) acre property sold for \$32,000 in 2012. Respondent reported the sale price and associated land area supported the land value schedule rates.

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 majority of the subject parcel is dedicated to the production of forest land. In

accordance with Idaho Code Title 63, Chapter 17, such land qualified for valuation apart from the normal market value standard. Section 63-1701(c), I.C., provides “Forest land is land bearing forest growth or land which has not been converted to another use.” By definition, certain land used for residential or recreational purposes cannot be classified as forest land for assessment purposes.

The Board found the land associated with subject’s developed access, site improvements, and structures, could not simultaneously produce timber growth. We found it proper for Respondent to assess the developed areas and associated ground under the market value standard provided for in Section 63-205, I.C. In this latter section, market value is estimated annually on January 1 of the relevant tax year. Market value is defined in Idaho Code § 63-201,

“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.

Mentioned in this case was IDAPA 35.01.03.645. The rule, which pertains to the assessment of homesites on certain agricultural land, provides in part as follows,

645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (RULE 645).

Section 63-604, Idaho Code. (3-15-02)

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. (7-1-99)

a. Homesite. The “homesite” is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (7-1-99)

b. Associated Site Improvements. The “associated site improvements” include developed access, grading, sanitary facilities, water systems and

utilities.

Similar, but pertinent specifically to forest land situations, is Rule 961. This rule provides in pertinent part,

961. HOMESITE ASSESSMENT AND FORESTLANDS OF LESS THAN FIVE ACRES AND CONTIGUOUS PARCELS (RULE 961).

Sections 63-1702 and 63-1703, Idaho Code. (4-7-11)

01. Definitions. The following definitions apply to the valuation of residential parcels that are contiguous to lands classified as forestlands. (4-7-11)

a. Homesite. The "homesite" is that portion of land, contiguous with but not qualifying as forestlands, and the associated site improvements used for residential purposes. (4-7-11)

b. Associated Site Improvements. The "associated site improvements" include developed access, grading, sanitary facilities, water systems, and utilities. (4-7-11)

02. Homesite Assessment. Each homesite and residential and other improvements, located on the homesite, shall be assessed at market value each year. (4-7-11)

a. Accepted Assessment Procedures. Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (4-7-11)

b. Appropriate Market and Comparable Selection. The appropriate market is the market most similar to the homesite and improvements located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (4-7-11)

c. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (4-7-11)

d. Assigning secondary category. List and report the secondary category for the homesite using the chart in Paragraph 961.02.d. of this rule. (Emphasis added.) (4-7-11)

The chart that is referenced immediately above provides "Rural and Subdivided" land should be listed using the Secondary Category 15. We note specially that in this

instance Respondent assigned the subject homesite a Category 10 classification. However this listing assignment had no impact on the market value question.

We have determined subject's developments do trigger a market value assessment on this forest land parcel. Even apart from the presence of a traditional residence, the assessment is properly referred to as a "homesite" assessment. In the valuation process, one of the first steps in defining the appraisal problem is to identify the characteristics of the property being appraised. This should be done with some specificity as it is important to the rest of the appraisal.

Rule 961.01 provides that a homesite "is that portion of land, contiguous with but not qualifying as forestlands, and the associated site improvements used for residential purposes." The rule provides further that associated site improvements "include developed access, grading, sanitary facilities, water systems, and utilities." The rule does not require nor suggest that a homesite's size shall be one (1) acre. It is clear to us the size determination should reflect a measurement of the land area not qualifying as forest land, including any land dedicated to access. Neither party provided good evidence of such a measurement.

Appellants did offer some testimony suggesting the land under and around the pole structure was less than one (1) acre. What was unclear from the testimony was the amount of land associated with the developed access. In lieu of accepting Respondent's one (1) acre determination, the Board "measured" the homesite from the exhibit materials, specifically an aerial photo. On the photo were the approximate boundaries of the subject

parcel's 9.5 acres. Scaling the pad area around the pole structure and the access lane leading to the structure yielded a rough size determination of .75 acres.

Respondent sought to follow Rule 645 in assessing and valuing subject's developed site and site improvements. Rule 645 mirrors Rule 961 in certain parts. However, the Board shared the same concern voiced by Appellants, that the county's one-acre land size determination was arbitrary. Accordingly, we shall substitute our measurement of the homesite land area. Appellants accepted the value assigned to the pole structure. Appellants described the cost and efforts associated with developing the access, but in comparison to Respondent's consideration, Appellants did not present superior valuation of this improvement. Nor did Appellants present a good appraisal of the market value of the underlying homesite land.

Substituting our measurement of the homesite land (.75 acres) and applying Respondent's land schedule rate (\$4,000 per acre) yields \$3,000. To this figure must be added the contributory value of the developed access which is \$1,500, for a total homesite market value of \$4,500.

In conclusion, the Board holds subject's homesite was incorrectly sized at one (1) acre. In using a measured size of .75 acres, the market value assessment would be decreased to \$4,500. For the reasons expressed, and to correct the homesite acreage, the decision of the Benewah County Board of Equalization will be modified reducing subject's homesite (Category 10) value to \$4,500.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Benewah County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED reducing subject's homesite valuation (Category 10 value) to \$4,500, for a total parcel taxable value of \$6,804.

IT IS FURTHER ORDERED that 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.

DATED this 11th day of March, 2014.