

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF) APPEAL NOS. 13-A-1183
WESTPARK PHASE II, LLC from the decisions) & 13-A-1184
of the Twin Falls County Board of Equalization)
for tax year 2013.) FINAL DECISION
) AND ORDER

AGRICULTURAL EXEMPTION APPEALS

THESE MATTERS came on for hearing November 7, 2013, in Twin Falls, Idaho before Board Member Leland Heinrich. Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision. Manager David Shotwell appeared at hearing for Appellant. Assessor Gerry Bowden, Appraiser Michael Brown, Appraisal Department Supervisor John Knapple and County Prosecutor Jennifer Bergh appeared for Respondent Twin Falls County. These appeals are taken from the decisions of the Twin Falls County Board of Equalization denying protests of valuation for taxing purposes of property described by Parcel Nos. RPT56920020020A and RPT5692002003BA.

The issues on appeal concerns whether certain land qualifies as “land actively devoted to agriculture” pursuant to Idaho Code § 63-604, or in the alternative whether market value assessments are correct.

The exemption and value decisions of the Twin Falls County Board of Equalization are affirmed.

FINDINGS OF FACT

Appeal No. 13-A-1183 - Parcel No. RPT56920020020A

The assessed value of this 1.379 acre lot is \$546,535. Appellant requests the parcel receive an agricultural exemption grant and its value be reduced accordingly to \$2,316.

Appeal No. 13-A-1184 - Parcel No. RPT5692002003BA

The assessed value of this .643 acre lot is \$258,038. Appellant requests the parcel receive an agricultural exemption grant and its value be reduced accordingly to \$1,080.

The subject lots are adjacent and located in the Twin Falls Westpark Commercial Subdivision #2, in Twin Falls, Idaho. Subjects used to be part of a larger, adjacent 30-acre parcel. Then subjects were split off from the larger parcel and the ownership was changed to Westpark Phase II, LLC. Appellant contended subjects are effectively still owned by the same party as the 30-acre parcel, but are just named under a different entity.

Appellant explained the valuation of subjects drastically increased after the agricultural exemption was removed. Appellant asked for leniency for the error in altering the ownership of the different parcels which resulted in the alternate assessments. Appellant reported that by the time it became aware of the problem, it was too late to change the ownership or apply for another type of exemption.

Regarding the market value assessments, Appellant explained subjects were not marketable as they do not have sewer capacity at this time. Appellant referenced a 2.5 acre parcel which sold in mid-2013 for \$4.60 per square foot. Also referenced was a parcel which at the time of hearing was under contract for \$700,000. Respondent noted this latter information concerned properties which sold, or were under contract, after the January 1, 2013 assessment date and therefore could not be considered in the retrospective valuation of subjects.

Respondent explained as the subject lots' ownership was changed from that of the 30-acre parcel, and where together the two (2) lots were less than five (5) acres in size, an updated agricultural exemption form needed to be submitted which demonstrated qualification in order to be granted the exemption. Appellant was allowed additional time to demonstrate that the

\$1,000 or more income threshold was satisfied. However the threshold limit was not met so the agricultural exemptions were not granted.

Subjects were then appraised under the market value standard. In using the sales comparison approach four (4) bare land sales were examined. The sales ranged between 1.08 and 1.30 acres in size, with sales prices between \$490,741 and \$821,238. One (1) sale was not relied on in the final analysis as it wasn't comparable to subjects due to location. Considering the remaining three (3) sales, a mean value of \$13.02 per square foot was calculated. Under the sales approach Respondent noted subjects would have been valued at \$13.02 per square foot. In an alternative analysis, Respondent concluded a value of \$9.10 per square foot, which represents subject's current assessed value.

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.

On review two (2) issues are potentially before the Board. First whether the land associated with subjects qualifies for an agricultural exemption in the current tax year, and if not, secondly whether subjects' assessed market values are correct.

First we look to whether the subject land qualifies for assessment treatment under the agricultural exemption. The qualification criteria are provided in Idaho Code § 63-604. Key portions of the statute follow.

Idaho Code § 63-604. Land actively devoted to agriculture defined.
(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 a cropland retirement or rotation program.

(b) *The area of such land is five (5) contiguous acres or less and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and*

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income; or

(ii) It agriculturally produced gross revenue in the immediately preceding year of one thousand dollars (\$1,000) or more. When the area of land is five (5) contiguous acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met. (Emphasis added).

Property assessment is done in the name of the record owner which term is defined in Idaho Code § 63-201(24) as, “the person or persons in whose name or names the property stands upon the records of the county recorder's office.” In the present case, Appellant, Westpark Phase II, LLC was the record owner on the relevant assessment date of January 1, 2013. The record shows the adjacent 30-acre parcel was owned by “West Park Partners.” The Board finds these are in fact two (2) distinct owners and thus the larger land parcel cannot be considered in determining the agricultural exemption eligibility of subjects.

Under the criteria in § 63-604, we find the combined land area of subjects is under the 5-acre threshold. Subjects' ownership was changed when the lots were split from the larger parcel. Under the criteria in § 63-604(b), subjects did not agriculturally produce gross revenue of \$1,000 or more, nor was it demonstrated that the land produced for sale or home

consumption the equivalent of 15% or more of the owner's annual gross revenue. Therefore the land does not qualify for the agricultural exemption.

"Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption. An alleged grant of exemption will be strictly construed. It must be in terms so specific and certain as to leave no room for doubt. An exemption claim cannot be sustained unless it is shown to be within the spirit as well as the letter of the law." *Bistline v. Bassett*, 47 Idaho 66, 71, 272 P. 696, 698 (1928). While the Board understands Appellant's position, we cannot conclude that the agricultural exemption should be granted, even on an interim basis, where the provisions of the controlling statute were not satisfied.

We turn now to the market value question. Respondent offered two (2) value conclusions, the higher of which was derived from the sales comparison approach. Ultimately, Respondent determined the lower value indicator of \$9.10 per square foot was more reflective of subject's value.

Market value is always estimated as of a specific point in time. The effective date of valuation for assessment purposes is set by Idaho Code. For the current tax year, that date is January 1, 2013. Idaho Code Section 63-205(1) provides in pertinent part:

All real, personal and operating property subject to property taxation must be assessed annually at market value for assessment purposes as of 12:01 -a.m. of the first day of January in the year in which such property taxes are levied, except as otherwise provided.

Appellant referred to sale information on two (2) 2013 transactions, one (1) of which was still under contract at the time of hearing. As Respondent noted, this information was beyond the effective date of valuation, i.e. January 1, 2013, and thus was untimely for this retrospective valuation question.

In Respondent's valuation, timely market information was considered in estimating subjects' market values. We did not find evidence of over-assessment or another problem. Pursuant to Idaho Code § 63-511, Appellant has the burden to prove the assessed value is erroneous by a preponderance of the evidence. Appellant did not adequately support the value claims in this matter. No error was demonstrated. The burden of proof was not met and for this reason, the decisions of the Twin Falls County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Twin Falls County Board of Equalization concerning the subject parcels be, and the same hereby are, AFFIRMED.

DATED this 21st day of February, 2014.