

residence and an attached garage, both constructed in 1978. Subject's topography was described as steep across the lower portion of the lot, and level on the upper portion, with views of the lake.

Parcel No. 50N03W292800 (Appeal No. 16-A-1068)

The assessed land value is \$45,000. Appellant contends the correct land value is \$0.

This subject property is a .252 acre parcel situated adjacent to the above-described property. Referred to as the "septic parcel", this property serves as the drainfield for the adjacent residential subject parcel. Because this lot cannot support a residence, Respondent valued it as non-buildable and applied a 50% downward adjustment. The parties did not distinguish between this *septic parcel* and the above *residential parcel*, nor were separate value conclusions developed, so for purposes of this decision, the two (2) parcels will be considered a single unit.

Appellant acquired the subject property in 2003. In 2011, there was a landslide which destroyed the neighbor's residence and rendered the access road to subject impassable. The landslide was caused by a poorly designed and executed storm water management system associated with a couple subdivision developments located above subject. Appellant commissioned a geotechnical forensic evaluation report prepared by a local engineering firm to understand the extent of the damage and to estimate remediation costs. The report detailed the work necessary to repair the road, as well as, to pin the hillside to prevent future sliding activity. The report estimated a total remediation cost of roughly \$900,000, which total included costs associated with repairing the neighbor's property. The cost to repair just the road and stabilize the hillside were estimated at approximately \$500,000. Appellant explained the remediation

work has not been done because the cost exceeds the total value of the property, even before the landslide.

Appellant also offered an independent fee appraisal of the subject property prepared shortly after the 2011 landslide. The appraisal included information concerning three (3) sales considered most comparable to subject. Adjustments were made to the sales for physical differences compared to subject. The appraisal estimated subject's total value at \$315,000, however, after factoring in the \$523,000 cost of installing a new road, the appraisal concluded a final total value of \$0. Without a permanent access road, the appraisal considered subject an unmarketable property.

Respondent developed a land matrix for valuing lots in subject's area. The matrix consisted of six (6) categories, called *Legends*, with 1 representing the lowest category and 6 the highest. Respondent was aware of the landslide and resulting damage to subject and the neighboring property. Prior to the landslide, the subject lot was valued as a *Legend 5* lot because it enjoys good lake views. After the landslide, Respondent reduced subject to a *Legend 1* lot and applied an additional 50% downward adjustment, for being non-buildable at the time. Respondent also placed a \$0 value on the residence, believing it may have been structurally damaged¹ during the landslide.

Toward developing the 2016 assessed value, Respondent inspected the subject property as part of its regular 5-year revaluation plan. The inspection revealed a gravel roadway had been installed and the residence was occupied by a renter who pays \$1,000 per month in rent. The renter reported having occupied the residence since February 2015. Appellant explained

¹It was later learned the residence suffered no structural damage from the landslide.

the tenant made the improvements to the road by backfilling the slide area. Appellant stressed the roadway improvements were not permanent and maintained the road was still at risk of another landslide until the full array of work outlined in the engineering report was completed. Because subject was accessible and occupied, Respondent removed the 50% adjustment for non-buildability, however, kept subject in the *Legend 1* land category. Also, in an effort to account for any deferred maintenance issues which may have resulted from the residence sitting vacant for several years, Respondent reduced the condition of the residence from “average” to “fair”, and used the residence’s actual age as its effective age.

As for direct value evidence, Respondent offered information concerning four (4) sales which transpired during 2015. The sale properties were all located within a couple miles of subject and were generally comparable in terms of size and construction grade. Sale prices ranged from \$276,000 to \$465,000. Respondent made individual appraisal adjustments for differences between the sale properties and subject, such as, square footage, view, condition, and other notable differences. Adjusted sale prices were between \$217,152 and \$308,062. Subject’s total assessed value is \$240,230, which Respondent noted was well within the range indicated by the sales. Appellant pointed out none of the sales in Respondent’s analysis suffered damage from landslides, nor were any located in or near a landslide zone. As such, Appellant contended none of the sales should be used to determine subject’s market 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.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2016 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 for determining market value include the, 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). Residential property is commonly valued using the sales comparison approach, which considers recent sales of proximate and similar property.

The parties agree, and the record is clear, subject was damaged by the 2011 landslide. The issue here centers on the effect of the damage on subject’s current value. Appellant, based on the conclusion reached in a 2011 appraisal of the subject property, argued subject is unmarketable because the access road has not been permanently repaired and therefore the property has zero value. Respondent countered the property has been occupied since early 2015 and thus does have value. We agree.

While there is no dispute subject was inaccessible immediately following the landslide, such was not the case on January 1, 2016; the controlling date of assessment. Indeed, the record clearly established an access road has been installed, even if such road falls short of the complete remediation work detailed in the engineering report. The assessor is required “to find market value for assessment purposes of all property, except that expressly exempt . . .

according to recognized appraisal methods and techniques as set forth by the state tax commission; provided, that the *actual and functional use shall be a major consideration* when determining market value for assessment purposes.” Idaho Code § 63-208 (emphasis added). The statute is unambiguous in requiring a property’s actual and functional use feature prominently in estimating its market value for assessment purposes. In the case at bar, subject, as of the assessment date, was being used for the residential purpose for which it was designed. The property had vehicular access and was being rented for \$1,000 per month. To suggest the property has no value is controverted by the facts.

Though subject is currently habitable, consideration must be given to the uncertainty surrounding the stability of the nearby hillside and the potential for the access road to be damaged again should another landslide occur. On this point we found Respondent’s consideration of this factor thoughtful and reasonable. Subject’s lot was placed in the lowest land category available in the area, which resulted in a \$90,000 reduction from the category to which subject would belong if not for the landslide issue. The 50% adjustment for being non-buildable was rightfully removed because the lot does currently support a residence. Likewise, the Board found Respondent’s valuation treatment of subject’s residence reasonable and supported. Though the residence was not damaged in the landslide, it did sit vacant for several years until the current tenant occupied the premises. Respondent accounted for this by downgrading the condition rating and using the structure’s actual age as its effective age.

Admittedly the landslide issue does make subject unique compared to the other sale properties referenced by the parties. That being said, the record does not support the value requested by Appellant. The fact is, subject is no longer inaccessible or uninhabitable.

Pursuant to Idaho Code § 63-511, the burden is with the Appellant to establish subject's valuation is erroneous by a preponderance of the evidence. We do not find the burden of proof satisfied in this instance.

Based on the above, the decisions of the Kootenai County Board of Equalization are affirmed.

FINAL ORDER

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

DATED this 24th day of February, 2017.