

BEFORE THE IDAHO BOARD OF TAX APPEALS

MARK LARSON,	)	
	)	
Appellant,	)	APPEAL NO. 17-A-1040
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BONNER COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

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**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. RP59N01W194900A. The appeal concerns the 2017 tax year.

This matter came on for hearing September 13, 2017 in Sandpoint, Idaho before Hearing Officer Travis VanLith. Appellant Mark Larson was self-represented. Assessor Jerry Clemons represented Respondent.

Board Members David Kinghorn, Leland Heinrich and Kenneth Nuhn join in issuing this decision.

**The issue on appeal concerns the market value of a partially improved rural residential parcel.**

**The decision of the Bonner County Board of Equalization is modified.**

FINDINGS OF FACT

The assessed land value is \$49,457, and the improvements' value is \$76,980, totaling \$126,437. Appellant contends the correct land value is \$5,832, and the improvements' value is \$0, totaling \$5,832.

The subject property is a nine (9) acre residential parcel situated in rural Bonner County. Eight (8) of subject's acres were assessed as forest land at \$832. The remaining

acre was valued as a residential homesite at \$48,625, which value includes \$13,000 for onsite improvements, such as utilities and driveway access.

Appellant purchased the subject parcel in 2005 for \$25,000. In 2008, Appellant obtained a building permit to construct a dwelling on the property. The permit outlined a two (2) story residence with an attached garage. Since that time Appellant has been constructing the residence, which Respondent estimated was 40% complete as of January 1, 2017. Based on some photographs of the incomplete interior framing of the residence and some windows which had been installed, Respondent determined the dwelling would be two and one-half (2½) stories when finished. Appellant maintained the completed residence will be only two (2) stories as indicated on the building permit. Appellant provided photographs of the interior showing the windows were installed below the collar ties, which Appellant contended was proof the contested area was not an additional one-half (½) story as believed by Respondent, but rather open interior space.

Appellant further contended the partially-completed residence should not be subject to taxation because it was not occupied. Appellant testified the residence has never been occupied, nor used for storage or any other purpose other than active construction. Appellant argued until the residence is actually occupied, it should not be assessed for purposes of property taxation. Respondent argued Idaho Code § 63-317 required subject's partially completed residence be assessed. Respondent pointed out the statute exempts improvements from assessment and taxation during the year of construction and noted construction of subject's residence began in 2008 so should have been added to the

property tax rolls several years ago.

In support of reducing subject's land value, Appellant referenced the 2016 sale of an adjacent ten (10) acre parcel for \$35,000. Appellant additionally provided information concerning three (3) other land sales. Two (2) of the sales transpired in 2017 and the other closed in October 2016. The 2017 sales involved a five (5) acre parcel and a 5.11 acre parcel which reportedly sold for \$32,000 and \$30,100, respectively. The 2016 sale was a twenty (20) acre tract which sold for \$43,000.

Appellant also provided a fee appraisal report for subject's one (1) acre homesite. The appraisal utilized three (3) vacant sales for comparison with subject. The two (2) sales from 2016 were both ten (10) acre tracts and the 2017 sale concerned a smaller 6.85 acre parcel. Sale prices ranged from \$32,400 to \$35,000. Adjustments were made for view, utilities, topography, and timber coverage, resulting in adjusted sale prices between \$24,160 and \$29,600. The appraisal concluded a value of \$15,000 for the subject homesite as of February 22, 2017.

In reviewing subject's property record, Respondent discovered subject's land grade was inconsistent with neighboring parcels. Respondent recommended subject's land grade be changed to "fair", which would reduce subject's raw homesite value from \$35,625 to \$11,340. Adding \$13,000 to the raw land value to account for the onsite improvements, plus the \$832 for the forest land acres results in a total land value of \$25,172, which Respondent petitioned this Board to adopt.

For evidence of subject's land value, Respondent relied on the same sale of the

adjacent ten (10) acre parcel referenced by Appellant. The parcel sold in August 2016 for \$32,500, which Respondent noted was higher than subject's land value as proposed above. In all, Respondent contended subject's land value was reasonably assessed and supported by the available sales data.

#### 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, 2017 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. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). The sales comparison approach is often used to estimate the value of residential property. The parties both provided information relevant to the sales

comparison approach with respect to subject's land valuation. For the value of the improvements, Respondent relied on the cost approach, while Appellant contended the improvements should not be valued at all because the residence is not finished.

The two (2) issues before this Board concern the value of subject's incomplete residence and the value of the one (1) acre homesite. Appellant argued subject's residence should not be assessed because the structure is incomplete and has never been occupied, or used for storage or any other purpose. Respondent contended the partially-finished dwelling contributes value to the property so should be valued. We agree.

Idaho Code § 63-317 provides in pertinent part,

(1) All real property subject to property taxation shall be valued and taxed based upon its status as of January 1 of each tax year. Improvements, other than additions to existing improvements, constructed upon real property shall not be subject to property taxation during the year of construction *other than that portion actually in place as of January 1 of each calendar year . . .* (Emphasis added).

As the statute makes clear, improvements to real property which exist on January 1 of each calendar year are to be assessed and taxed. Appellant contended subject's residence needs to be actually occupied before it can be assessed for purposes of property taxation. Subsection (2) of the above statute does address occupancy, however, this is not an occupancy issue because the subject dwelling has never been occupied. This is simply a question of what improvements existed on the subject property on January 1, 2017, which in this case was a partially-completed residence. And based on the information provided by Respondent, the subject dwelling was 40% complete on the assessment date. As such, it was appropriate for Respondent to assess the residence as

40% complete.

Though we agree subject's unfinished residence should be valued, we do not agree with the value determined by Respondent. Specifically, we find Respondent erred in assuming the residence will be two and one-half (2½) stories when complete. Appellant's testimony and the photographs provided do not support Respondent's contention regarding the one-half (½) story. As such, the value of the 701 square feet assigned to the one-half (½) story should be removed to reflect the reality the residence will be two (2) stories when finished. Removing the value of the 701 square feet results in a reduced value of \$61,396 for the partially-complete dwelling.

Turning next to the value of subject's one (1) acre homesite, we also find a downward adjustment appropriate in this case. As noted by Respondent, subject's land grade was incorrect and inconsistent with neighboring parcels. The Board will therefore reduce subject's land grade to "fair" as advocated by Respondent and we will also accept Respondent's recommended reduced raw land value of \$11,340, which value was supported by sales information provided, including the sales information and appraisal report offered by Appellant.

Idaho Code § 63-511, places the burden on Appellant to prove error in subject's assessment by a preponderance of the evidence. While we found the burden of proof satisfied, we did not find sufficient grounds to reduce subject's total value to that petitioned by Appellant. Rather, we found the following values to be most representative of subject's current market value and hereby modify the decision of the Bonner County Board of

Equalization accordingly:

Homesite (1 acre)	\$11,340
Onsite improvements	\$13,000
Forest land (8 acres)	\$ 832
<u>Residential improvements</u>	<u>\$61,396</u>
Total value	\$86,568

#### 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 total value to \$86,568, as detailed above.

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 under certain circumstances that the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 2<sup>nd</sup> day of January, 2018.