

BEFORE THE IDAHO BOARD OF TAX APPEALS

IVAN VAN & JOLENE WARREN TRUST,)	
JEREMIAH WARREN,)	
)	APPEAL NOS. 17-A-1294
Appellants,)	(trust appeal), 17-A-1295 &
)	17-A-1296
v.)	
)	FINAL DECISION
ADAMS COUNTY,)	AND ORDER
)	
Respondent.)	
)	

AGRICULTURAL EXEMPTION APPEALS

These appeals are taken from decisions of the Adams County Board of Equalization denying claims for exemption on certain lands associated with Parcel Nos. RP18N02E020910A (trust parcel), RP18N02E021201A and RP18N02E021400A. The appeals concern the 2017 tax year.

The matters came on for consolidated hearing September 28, 2017 in Council, Idaho before Board Member Leland Heinrich. Jeremiah Warren represented Appellants at hearing. Assessor Stacey Swift Dreyer represented Respondent.

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

The issue on appeal is whether land associated with the subject parcels qualifies for exemption from property taxes pursuant to Idaho Code §§ 63-602K and 63-604, the agricultural exemption.

The decisions of the Adams County Board of Equalization are affirmed.

FINDINGS OF FACT

The three (3) subject parcels are unimproved and located in the Rock Flat area, near the Little Ski Hill above McCall, Idaho. The parcels are situated one next to another. Along one side of the parcels is a wooded stretch, and next to this is a relatively flat

meadow. The meadow ground is crossed at the very edge of the parcels by a small grass airstrip. Some fencing exists in connection with the parcels, but none of the subjects were perimeter-fenced individually or collectively.

The following chart contains details pertinent to subjects' 2017 assessments. In 2016, land associated with each subject was granted an agricultural exemption. Appellants seek reinstatement of the historically granted agricultural exemptions for the 2017 tax year. The agricultural lands exemption is a partial exemption and Appellants do not dispute Respondent's net taxable values in that regard. With the exception of noted forestland, the remaining acreage associated with subjects was assessed and valued in 2017 under the market value standard applicable to non exempt property. Under the 2016 assessment treatment, given agricultural exemptions on each parcel, subjects were assessed in total for \$20,101. The noted forestland acreage and its assessed value did not change between 2016 and 2017.

<u>Parcel</u>	<u>Acres</u>	<u>Total Valuation</u>	<u>Comment</u>
RP18N02E020910A	29.81	\$61,389	includes 11.0 acres of forestland
RP18N02E021201A	6.00	\$19,224	
RP18N02E021400A	6.00	\$19,224	

Appellants report historically having cut grass hay off the subject parcels and selling the hay either locally or away from the immediate area. The farming practice was explained to yield, in most years, a small amount of income by keeping the associated expenses at a bare minimum. Details about the farming of the land year by year, and parcel by parcel, were generally thin. However the record revealed the grass was not usually cut before the end of July to insure the ground is dry enough to handle equipment.

Appellants submitted several photographs from 2017 showing harvest work underway on the subject parcels. Respondent observed this was good evidence to support the parcels' exempt status in tax year 2018.

In calendar year 2016, Appellants reported some neighbors had sheep come in and graze, and in association with this, subjects' hay ground was evidently "stomped." The cutting and bailing of the potential hay was not possible. Details were thin, but Appellants offered testimony they tried to run the swather at some point but there was basically nothing to claim. The stomped condition of the grass was described as similar to the last couple inches of stubble after a cutting, and hard to sweep up. Brief testimony indicated Appellants tried to bail it but got very little. Appellants explained this was the harvesting problem in 2016. Two (2) individuals reportedly visited the subject grounds in 2016, on behalf of Appellants, in attempting to recognize a harvest. Appellants also loosely referenced bills in 2016 related to farm equipment, but that these costs went in with the timber operation.

Other evidence was shared by Appellants relating to subjects' farming practices. Farm equipment is left at or near subjects to facilitate farming. For storage, the equipment is pulled back out of the way to avoid collisions with snowmobilers, or in some instances equipment might be borrowed from neighbors, so the presence of farming equipment was not always obvious. In 2015, subjects were grazed by sheep and Appellants reported receiving money from that use.

Respondent reports the prior agricultural exemptions on subjects were removed for

2017 based on a determination of non-agricultural use in the calendar year 2016. Subjects were part of the Assessor's reappraisal work for 2017 and were site-visited on September 6, 2016 by two (2) certified appraisers. At the time of inspection, no obvious signs of agricultural use were observed, and a corresponding field notation was made. Later a letter, marked "IMPORTANT – PLEASE READ", together with an Agricultural Exemption Application was sent to Appellants' representative. A specified deadline for return of the application was April 15, 2017.

Appellants argued the form was not received from the Assessor and that it was not required anyway. In response to Respondent's references to "profit making", Appellants argued this was also not part of the law for cropland qualification. Respondent reported a completed form was not received back in the Assessor's Office, nor was the mailed form returned by the post office to suggest there may have been a delivery problem. Respondent agreed a completed application form was not mandatory, but explained it could be helpful if timely received in demonstrating agricultural use, especially when such use was not clearly visible. Respondent noted the prior reappraisal had granted the agricultural exemption based on subjects being leased for grazing. In 2017, a deputy assessor visited in the Assessor's Office with Appellants' representative, but the deputy reports no specific information on 2016 farming activity was received. In sum, Respondent reported it did not find, nor receive from Appellants, hard evidence of farming activity in 2016.

Respondent provided several photographs bearing a time mark of September 6,

2016. Most of the photographs did not show evidence of active or recent farming, however the first photograph in Respondent's Exhibit A.4 may have evidenced some recent cutting. The photographs, however, did not include identification information like parcel boundaries and parcel number identifiers. In closing, Respondent argued it cannot allow an exemption where the property does not qualify.

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 here, 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 § 63-203 provides "All property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation." Section 63-601 repeats this standard. Section 63-205, I.C., requires taxable property be appraised at market value annually on January 1; January 1, 2017 in this case. Appellants do not dispute Respondent's 2017 market value determinations for subjects. Instead, Appellants seek agricultural exemptions for the land associated with each subject, the timberland one (1) parcel being the exception.

In *Ada County Bd. of Equalization v. Highlands, Inc.*, 141 Idaho at 206 (2005), the High Court reviewed a number of its "rules" (case law standards) in determining whether or not a taxpayer is entitled to an exemption. First, the Court noted "tax exemptions are

disfavored generally, perhaps because they seem to conflict with principles of fairness-equality and uniformity-in bearing the burdens of government.” The Court then avowed “Statutes granting tax exemptions are strictly construed against the taxpayer and in favor of the State.” And further, “Tax exemptions are narrowly construed, following the ‘strict but reasonable’ rule of statutory construction.” Finally the Court recognized its long established rule taxpayers “must show a clear entitlement to an exemption, as an exemption will never be presumed.” (Internal legal citations omitted from the above quotations.)

The Assessor must complete an annual assessment of all property within the local county. I.C. § 63-301 provides this work must be completed by the fourth Monday of June, and such was done here.

63-301 Time of assessment — Property roll, subsequent property roll and missed property roll. (1) The assessor shall complete an assessment of all real and personal property in his county which is subject to assessment by him on or before the fourth Monday of June . . . Said assessments shall be entered on the property roll

The Idaho tax code includes several exemptions from property tax. Exemption statutes are found in Title 63, Chapter 6, I.C. Many exemptions require annual application, however § 63-604, for contiguous land of more than five (5) acres in size, does not. Before considering § 63-604 further, we briefly review I.C. § 63-602K in pertinent part,

63-602K Property exempt from taxation — Speculative portion of value of agricultural land. (1) The speculative portion of the value of land actively devoted to agriculture is exempt from taxation.

(2) "Land actively devoted to agriculture" means that property defined by section 63-604, Idaho Code

This case centers on whether the subject lands were shown to be actively devoted to agriculture within the meaning of the statute. Section 63-604 provides the key definition. To be exempt, the land use must be demonstrated to comport with at least one (1) of the definitions below. Here the relevant definition is in subsection (1)(a)(I).

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

According to the statute, land used to produce a field crop need not demonstrate the use was part of a for-profit enterprise. Being part of a for profit enterprise is connected with an owner's grazing use. We now examine the record to see if the land was used as of the January 1, 2017 assessment date to produce field crops. Specifically, does the record show qualifying use during calendar year 2016, the intervening period since the last assessment for the 2016 tax year.

A physical reappraisal of subject lands occurred in June of 2016. At that time, no recent, ongoing, or preliminary signs of active agricultural use were observed by two (2)

participating deputy assessors. The parcels were noted to lack sufficient fencing to control grazing. Also from the record it was demonstrated Appellants have not sought qualification on a grazing use, and in fact reported they do not graze subject lands with their own livestock, nor did they have a grazing lease in place for 2016. The record was also clear no agricultural use occurred in the first half of 2016 when the grass land would be too wet to work with equipment.

We found Appellants did not submit to the Assessor or Respondent completed copies of the Agricultural Exemption Application.¹ Use of the form is not mandated in the tax law, and may or may not be helpful in demonstrating a qualifying use. At hearing Appellants did offer some information on their use of the land in 2016, but the comments were sometimes combined or overlapping with statements applying to other years, or lacking in precision. On the record before us, we cannot say with certainty that collectively the subject parcels were used in 2016 toward producing a grass hay crop. Nor can we find that any one (1) of the subjects was so used.

We would quickly concede it was certainly possible one (1) or all of subjects were used in a qualifying fashion in 2016, but on the record here such a use could not be clearly articulated and described. Our conclusion is similar to Respondent's; lacking more precise and clear information of what was done by whom and when, in connection with the farming of *each* of the subject parcels in 2016, clear entitlement to the agricultural exemption was

¹ The transmittal of these appeals by the County Auditor included copies of completed application forms for each subject. All were dated August 8, 2017. The forms were attached by Appellants, together with a two (2) page narrative, to the notice of appeal forms. At hearing, none of the parties spoke in a material way to the notices of appeal or their attachments.

not demonstrated. In connection with their grass hay operation for the calendar year 2016, Appellants' offered testimony fell short of proving subjects were actually used in 2016 toward producing a future field crop or actual harvest. The mere presence, at least earlier in the year of a potential natural grass crop was deemed insufficient to qualify for exempt status.

In conclusion we cannot say or find the subject lands were actively used in 2016 to produce a field crop, or used by the owner for the grazing of livestock as part of a for-profit enterprise. The possible sheep grazing that reportedly occurred in 2016 did not involve the landowners' own livestock, nor did it occur under a bona fide lease. If any crop was harvested in 2016, the record did not provide details as to which parcels might have been involved and to what extent, nor were there clear details in record of what land work might have been done toward producing a future crop. On the thin and at times unclear evidence before us, Appellants have not demonstrated entitlement to an agricultural exemption on the subject parcels.

For the reasons expressed, the assessment decisions of the Adams County Board of Equalization are affirmed.

FINAL ORDER

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

DATED this 22nd day of December, 2017.