

BEFORE THE IDAHO BOARD OF TAX APPEALS

WIND GRAYGHOST LIVING TRUST,	)	
	)	
Appellant,	)	APPEAL NO. 18-A-1012
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BONNER COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**MINING 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. RP53N01W299990A. The appeal concerns the 2018 tax year.

This matter came on for hearing September 12, 2018 in Sandpoint, Idaho before Hearing Officer Travis VanLith. Attorney Henry Madsen appeared at hearing for Appellant. Chief Deputy Assessor Al Ribeiro represented Respondent.

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

**The issue on appeal concerns the proper tax assessment treatment of a mining building pursuant to Idaho Code § 63-2801.**

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

FINDINGS OF FACT

The assessed land value is \$554, and the improvements' value is \$5,691, totaling \$6,245. Appellant does not contest the land valuation at \$5.00 per acre, as valued according to the applicable mining statute, however, contends the improvements should not be specifically or separately assessed apart from the net profits of mine tax.

The subject property is a rural 110.82 acre tract consisting of six (6) patented mining claims and a large low-quality building. Appellant described the building as a dilapidated mining

shack. As of mid-2018, the mining claims were not active.

While there is no disagreement concerning how the mining claim acres were assessed, the parties disagreed on whether the building situated on the parcel should be assessed. Appellant argued the building was part of the mining operation, similar to how the costly African Mahogany beams supporting a mine tunnel are part of the mine and not subject to a separate assessment and taxation. In support of this position, Appellant looked to the intent of the legislature when mining statutes were first enacted. According to Appellant, a primary motivation in enacting special mining statutes was to incentivize private persons and entities to engage in mining pursuits so the government would not have to absorb the effort and costs associated with extracting valuable minerals from the ground. Appellant suggested the intent of the legislature was to impose a tax once minerals have been extracted (net profits of mine tax), not to tax the miner out of business before extraction occurs. Appellant argued the intent behind the special assessment statutes for timberland was similar. Viewed against this backdrop, Appellant contended the mining shack on the subject parcel should not be regularly assessed as other real property is, but should rather be assessed inclusively as part of the mining claim.

Respondent disagreed with Appellant's interpretation of the statute and pointed to a portion of Idaho Code § 63-2801 which specifically called for the assessment of improvements and machinery placed upon a mining claim or used in connection therewith. Accordingly, Respondent maintained the subject building must be assessed.

#### 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. We note the

assessment and taxation of mines and certain related mining property is different from other property in Idaho. The 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 sole issue before this Board is whether a large building improvement situated on a mining claim tract should be valued and assessed apart from the mine and net profits of mine tax. For the reasons below, we find such improvements should be assessed and taxed under the regular market value standard, i.e. separately from the mining operation.

The controlling statute in this instance is Idaho Code § 63-2801, which provides in pertinent part,

All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal or other valuable mineral or metal deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of said mine or mining claim is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground or any part thereof so used for other than mining purposes, shall be taxed at its value for such other purposes, and all machinery used in mining, and all property and surface improvements upon mines or mining claims, which have a value separate and independent of such mines or mining claims and the net annual proceeds of all mines and mining claims shall be taxed: provided, that *nothing in this chapter contained must be construed so as to exempt from taxation improvements, buildings, erections, structures or machinery placed upon any mining claims, or used in connection therewith . . . .*  
(Emphasis added).

Appellant focused on the legislative intent in the creation and enactment of mining statutes in arguing the mining building at issue here is part of the mine and should be assessed as part of the mine's net profits' assessments. Appellant also suggested the above statute was in conflict with itself because the beginning portion of the statute discusses only valuing

improvements which have a separate and independent value from the mining operation, whereas the latter portion of the statute calls for improvements to be assessed and taxed. Appellant's arguments are understood, however, we reach different conclusions.

While examining the legislature's intent in enacting mining statutes is interesting, the rules of statutory construction dictate there is no occasion judicially to interpret the legislative intent when there is no ambiguity in the plain reading of the statute. In other words, the legislative intent is clear from the words contained in the statute itself.

"This Court has consistently adhered to the primary canon of statutory construction that where the language of the statute is unambiguous, the clear expressed intent of the legislature must be given effect and there is no occasion for construction. Moreover, unless a contrary purpose is clearly indicated, ordinary words will be given their ordinary meaning when construing a statute. In construing a statute, this Court will not deal in any subtle refinements of the legislation, but will ascertain and give effect to the purpose and intent of the legislature, based on the whole act and every word therein, lending substance and meaning to the provisions." *Corp. of the Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Ada Cnty.*, 123 Idaho 410, 415, 849 P.2d 83, 86 (1993).

We do not find ambiguity in the above-statute, but rather we find the statute to be a clear expression of the legislature's intent to assess and tax improvements situated on mining claims. To the extent there is any confusion regarding which improvements should be valued and taxed because they may have a separate and distinct purpose and value apart from the mining operation referenced in the earlier portion of the statute, such confusion is remedied in the latter portion of the statute, which specifically states *all improvements, buildings, erections, structures, and machinery* must be assessed and taxed.

It is clear the legislature intended improvements like the subject building should be assessed under, not exempted from, the market value standard. We also note, such

interpretation is consistent with how other special assessment and exemption statutes have been interpreted by the courts; particularly the partial exemption for land actively devoted to agriculture, which applies only to the agricultural land, and not any associated storage sheds or buildings placed on the property and used in connection with the farming operation.

Based on the above, we did not find Appellant to have clearly established a right to an exemption, nor to have demonstrated the subject building would be properly assessed as part of the mine and its special net profits of mine tax. Accordingly, the decision of the Bonner County Board of Equalization to value and tax the building under the market value standard is affirmed.

#### 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, AFFIRMED.

DATED this 30<sup>th</sup> day of October, 2018.