

BEFORE THE IDAHO BOARD OF TAX APPEALS

BONNER COUNTY ASSESSOR,)	
)	
Appellant,)	APPEAL NO. 18-A-1030
)	
v.)	FINAL DECISION
)	AND ORDER
MICHAEL GEARLDS AND JUNE FOGERTY,)	
)	
Respondents.)	
_____)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Bonner County Board of Equalization modifying an appeal of the valuation for taxing purposes on property described by Parcel No. RP56N02E072545A. The appeal concerns the 2018 tax year.

This matter came on for hearing October 17, 2018 in Sandpoint, Idaho before Board Member Kenneth Nuhn. Assessor Jerry Clemons represented Appellant. Michael Gearlds appeared at hearing for Respondents.

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

The issue on appeal concerns the market value of an improved residential property.

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

FINDINGS OF FACT

The county assessed land value is \$42,630, and the improvements' value is \$235,393, totaling \$278,023. Appellant contends the correct land value is \$62,322, and the improvements' value is \$276,518, totaling \$338,840.

The subject is a 6.642 acre residential property located in Hope, Idaho. The property is improved with a main residence and a secondary structure, which structure is the central issue in this appeal. The main residence, constructed in 1995, totals 4,824 square feet in size and is

assessed for \$225,182. The secondary structure was built in 1895 as a dwelling and has been updated since the original construction. As for subject's land, five (5) acres are assessed as forest land, and one (1) acre as a residential homesite, with the remaining acreage categorized as rural residential tract land.

In support of subject's homesite value, Appellant-Assessor offered information concerning three (3) sales located within two (2) miles of the subject. The sales occurred during 2017. The sale parcels were all roughly five (5) acres in size and all were improved at the time of sale. Appellant removed the assessed values of the associated improvements from the respective prices, deriving land price indications ranging from \$76,154 to \$155,600. Appellant then further adjusted the sale prices to account for subject's larger lot size, which yielded adjusted prices between roughly \$87,000 and \$168,000. Subject's comparable land value, after removing the forest land exemption, would be \$97,424, which Appellant remarked was well supported given the recent sales activity in the area.

Moving to the value of the main residence, Appellant again provided information regarding three (3) sales of improved properties. The sale residences, which ranged in size from 4,060 to 4,278 square feet, were similar to subject's main improvement in terms of construction quality and condition. Appellant removed the assessed land values from the respective sale prices and also made adjustments to account for size and age differences between subject and the sale residences. After the adjustments, Appellant calculated adjusted prices ranging from \$225,696 to \$315,717. Subject's primary residence is assessed for \$225,182.

Lastly, Appellant addressed the assessment of the secondary structure situated roughly 120 feet from the primary residence. Citing an office policy concerning the classification of

structures, Appellant argued the structure is a dwelling and should be valued accordingly.

Appellant's office policy describes four (4) elements necessary for a structure to be classified as a dwelling; 1) living and/or sleeping space, 2) a kitchen, 3) sanitation, and 4) heating. Appellant inspected the secondary structure in November 2016 and contended the four (4) elements were all present. As such, Appellant proceeded to appraise the structure as a dwelling. Information concerning two (2) sales of older cabins were offered in support of the \$62,322 value of subject's secondary structure. Similar to the analysis above in regard to the main residence, Appellant adjusted the sale prices in an attempt to isolate the value ultimately attributable to the secondary structure. After adjustments, the price indications were \$45,969 and \$64,540.

Respondents disagreed with Appellant's characterization of the secondary structure as a dwelling. Respondents purchased subject in 1995, at which time the primary dwelling was constructed atop the foundation of the previous residence. Respondents testified since subject's purchase, the secondary structure has never been used as living space, but rather only as storage. In Respondents' view, the structure could not be used as a dwelling unless serious remediation work was done. First, the structure has no running water, nor a water heater. The water lines have been permanently shut off to avoid having to annually winterize the structure. Next, it was noted there is no septic system. The septic tank was found collapsed sometime around 2000. Also mentioned was a complete lack of insulation and no primary heating source. Respondents explained the structure has three (3) electric baseboard heating units from the 1960's, which are more than thirty (30) years beyond their normal service lives. Further, the baseboard heaters are located in only two (2) of the five (5) rooms, and only have roughly 45%

of the wattage recommended to heat a structure of subject's size. Respondents were unsure if the baseboard heater units worked because they have not been turned on in the twenty-eight (28) years Respondents have owned the property. It was also noted, there are no chimneys, flues, or roof penetrations for a stove. Respondents explained the roof on this structure was replaced in 2002, due to excessive leaking, and at that time the flues and roof penetrations were removed and covered over with new metal roofing. Further, the structure has exposed electrical wiring and the second level has no electrical outlets. Lastly, it was noted the structure is sagging with the southeast corner roughly seven (7) inches lower than the rest of the structure. This has caused door and window openings to more resemble parallelograms than rectangles. Respondents estimated it would cost more than \$60,000 to address the above deficiencies and make the structure habitable.

Respondents also contended Appellant did not uniformly and equitably employ the dwelling classification policy. Respondents highlighted a property located approximately one-quarter (1/4) mile away from subject. This other property is improved with a main residence and a secondary structure. The secondary structure there is a finished dwelling which the owner leases to tenants. Photographs were provided depicting a fully carpeted interior, finished living and bedroom quarters, full kitchen, and a primary heating source. According to Respondents, this other structure was not assessed as a second dwelling. Respondents questioned the fairness of the apparent disparate assessment treatments.

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 the testimony and documentary evidence submitted by the parties, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2018 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 Cnty.*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). The sales comparison approach is commonly used to estimate the market value of residential property.

The central issue in this appeal concerns whether subject’s secondary structure should be valued as a low grade dwelling or as merely a storage building. For the reasons expressed below, we find the structure in question is not a dwelling and should therefore not be assessed as such.

Appellant-Assessor contended the secondary structure should be valued as a dwelling because it satisfied all the criteria outlined in its dwelling classification policy. It was argued the fact Respondents do not use the structure for living purposes is irrelevant because the structure was designed and constructed to be a dwelling, and has actually been used as a dwelling during the building’s lifetime. We disagree on both counts.

First, based on the information and photographs provided by Respondents, the structure

does not meet the requirements outlined in Appellant's dwelling classification policy. The structure has no operational sanitation system. The septic tank was found collapsed sometime around 2000 and it has not been replaced or otherwise repaired. Further, there is no functioning kitchen in the structure, as the water lines have been shut off in a permanent fashion and the water heater removed. It is also apparent there is not adequate heat to make the space habitable. The three (3) small baseboard heaters are roughly fifty (50) years old and are located in only two (2) rooms. And, it is unknown if the units would even function because Respondents have never turned them on. In addition to these items, the structure is not insulated, there are no chimneys or flues to readily add a major heat source, there are no electrical outlets in the upper level, and the southeast corner is sagging a significant seven (7) inches below the rest of the structure. Given all these factors and condition issues, it is most difficult for the Board to presently accept or see this structure as a dwelling.

As for Appellant's argument the structure was designed as a dwelling and used as such at some point during the structure's history, and therefore it continues to be a dwelling, we find this misguided. It ignores how the structure has actually been used for the last twenty-eight (28) years. Idaho Code § 63-208(1) provides in pertinent part,

It shall be the duty of the state tax commission to prepare and distribute to each county assessor and the county commissioners within the state of Idaho, rules prescribing and directing the manner in which market value for assessment purposes is to be determined for the purpose of taxation. The rules . . . shall require each assessor 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.*
(Emphasis added).

As the above section directs, a property's actual and functional use shall feature prominently in estimating its market value for assessment purposes. The record was found to be clear here; the secondary structure has not been used for living purposes in decades. Indeed, Respondent has made concerted efforts to change the structure into a storage shed by shutting off water lines, removing the water heater, removing the chimney, flue, and roof penetrations, and not repairing or replacing the collapsed septic tank. The fact it once served as a dwelling, and could potentially once again with notable repairs, is irrelevant in the current context. The question is whether the structure was a dwelling on January 1, 2018. In this case the evidence is clear the structure was not a dwelling on the assessment date, either in function or use.

In appeals to this Board, the Appellant carries the burden of proving error in subject's valuation by a preponderance of the evidence. Idaho Code § 63-511. The burden of proof was not satisfied in this case. Respondents demonstrated the structure at issue is properly considered a storage building, not a dwelling. Storage has been the only use for nearly thirty (30) years. And in its current condition, the structure could not be readily used as a dwelling. Accordingly, we find no error in the decision of the Bonner County Board of Equalization, which decision is hereby affirmed in all respects, including changing the classification of .642 acres from rural residential to forest land.

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 20th day of December, 2018.