

BEFORE THE IDAHO BOARD OF TAX APPEALS

BONNER COUNTY ASSESSOR,)	
)	
Appellant,)	APPEAL NO. 18-A-1029
)	
v.)	FINAL DECISION
)	AND ORDER
BRIAN AND CARRIE MALAKOWSKY,)	
)	
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. RP54N04W145750A. The appeal concerns the 2018 tax year.

This matter came on for hearing October 16, 2018 in Sandpoint, Idaho before Board Member Kenneth Nuhn. Chief Deputy Assessor Al Ribeiro represented Appellant at hearing. Carrie Malakowsky appeared 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 rural residential property.

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

FINDINGS OF FACT

The County assessed land value is \$58,417, and the value of the improvements is \$10,021, totaling \$68,438. Appellant-Assessor agrees with the land value, however, contends the proper value of the improvements is \$17,963, for a total value of \$76,380.

The subject property is a 5.61 acre rural residential parcel located outside Clagstone, Idaho. The property is improved with various sheds and outbuildings, detailed descriptions of

which were absent in the record.

Appellant-Assessor explained subject's area was reappraised for the current 2018 tax year. All parcels in the area received increases of 10% to land values and 20% to improvement values. The value of subject's improvements was further impacted by an inspection of the property performed by Appellant in late 2017. During this inspection, it was discovered changes were needed to subject's property records to accurately reflect the current property characteristics. Specifically, five (5) outbuildings were added to the assessment. In addition, Appellant changed the classification of one (1) structure from a dwelling to a cabin because the structure did not conform to the guidelines outlined in an office policy concerning classification of dwellings. By making the quality and condition adjustments, the value of the "cabin" structure was reduced from \$18,139 to \$7,733.

Following an appeal by Respondents, the County Board of Equalization (BOE) determined the "cabin" structure, which is a shed sitting on two (2) skids, should not be assessed with the parcel because Respondents do not yet own the structure. The structure is subject to a monthly rent-to-own contract, and is owned by the lessor until the contract price is fully paid. Respondents highlighted a portion of the rental purchase agreement which states "consumer does not have any ownership rights, legal title, nor an equitable interest in the rented property until consumer has made the total number of payments or exercises the early purchase option." Respondents contended because they lack legal ownership rights in the shed, it should not be included on subject's assessment as taxable property. The BOE agreed and removed the value of this shed improvement from subject's assessment.

Appellant argued the BOE erred in removing the shed improvement from the assessment

because Idaho Code states all non-exempt property is subject to assessment and taxation. In Appellant's view, once the shed was placed on the subject parcel it became taxable property and must be assessed accordingly.

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.

The issue in this appeal centers on whether a shed-like structure situated on the subject property is subject to assessment and property taxation as real property. Based on the below, we find the structure should be included in subject's assessment.

The shed in question, while sitting on skids, is well integrated into the property's other improvements. From the photographs provided it appears the shed is attached to an RV trailer being used as dwelling. A chimney extends from the shed through the roof of the snow cover structure, under which the RV trailer and shed sit. In other words, the shed is not easily removable.

In determining whether the shed should be included in subject's assessment, we need look no further than Idaho Code § 63-203, which reads, “[a]ll property within the jurisdiction of this state, *not expressly exempted*, is subject to appraisal, assessment and property taxation.” (Emphasis added). Respondents did not point to, nor is the Board aware of, any exemption applicable to the shed improvement. As such, it is clear the shed must be assessed, and the record was void of any evidence suggesting the shed was elsewhere assessed. Respondents’

argument the shed should be excluded because it is subject to a rent-to-own contract, the terms of which have not yet been fully satisfied, is unpersuasive and has no foundation in laws pertaining to property assessment and taxation. Though not determinative of the issue here, it is interesting to note Clause 21 of the rent-to-own contract specifically provides, “[Respondents are] responsible for any and all real estate and personal property taxes.” Clearly the lessor contemplated the shed potentially being subject to assessment for purposes of property taxation.

Pursuant to Idaho Code § 63-511, Appellant bears the burden of proving error in subject’s assessment by a preponderance of the evidence. We find the burden of proof satisfied here. The shed in question was situated on the subject property as of January 1, 2018; the relevant assessment date in this appeal. And as noted earlier, the shed has been integrated into the other improvements to form a dwelling structure. It is clearly a real property improvement. We find no reason, or legal authority, to exclude the shed from subject’s assessment.

Given the above, the decision of the Bonner County Board of Equalization is reversed, thereby increasing the total value of the subject property to \$76,380.

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, REVERSED, as provided above.

DATED this 16th day of January, 2019.

because the Code states that real property is subject to assessment and taxation if it is

rent-to-own contract, and is owned by the lessor until the contract price is fully paid.