

BEFORE THE IDAHO BOARD OF TAX APPEALS

KENNETH GONSER,)	
)	
Appellant,)	APPEAL NO. 18-A-1026
)	
v.)	FINAL DECISION
)	AND ORDER
BONNER COUNTY,)	
)	
Respondent.)	
)	
)	
)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Bonner County Board of Equalization denying an appeal of the valuation for taxing purposes of property described by Parcel No. RP001730010200A. The appeal concerns the 2018 tax year.

This matter came on for hearing September 13, 2018 in Sandpoint, Idaho before Board Member Kenneth Nuhn. Appellant Kenneth Gonser was self-represented. 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 market value of an improved residential property.

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

FINDINGS OF FACT

The assessed land value is \$213,500, and the improvements' value is \$36,719, totaling \$250,219. Appellant contends the correct land value is \$89,500, and the improvements' value is \$14,240, totaling \$103,740.

The subject property is a .093 acre parcel with 75 front feet on the east side of Lake Pend Oreille, in an area locally known as Kilroy Bay. The property is improved with a small

cabin, an outbuilding, and a boat dock. The property was described as a recreational seasonal lot, however, it does have a well and electricity service. Subject's neighborhood, defined by Respondent as a fifteen (15) mile stretch on the east side of the lake, was noted to suffer from limited winter access and a general lack of services.

Appellant described concerns with certain characteristics of the subject lot. First, it was noted there is no legal road access to subject, only a boat access. Appellant acknowledged the property can be accessed by motor vehicle, though such access requires crossing several neighboring parcels. Also, rather than a lot depth of 75 feet, which was noted to be typical in the area, subject's shape is such that the lot has only 47 feet of depth on the west side, and 61 feet along the eastern property line. In addition, the back half ($\frac{1}{2}$) of subject is steeply sloped and mostly unuseable. Due to subject's lot dimensions and slope, development options are limited. Appellant further noted there is a trail which runs through the front ten (10) feet of subject and is used mostly by neighbors as a walking trail or as a pathway for recreational vehicles. In Appellant's view, these factors were not adequately considered in subject's valuation for taxation purposes.

Appellant next referenced a recent sale in subject's more immediate vicinity. The seller was described as an older widow who was having difficulty maintaining the remotely located property, so decided to sell. Through word of mouth between former work colleagues, the buyer learned of the seller's desire to sell the property. The parties agreed on a price of \$190,000 and the sale closed in April 2017. Respondent questioned the validity of this sale because the property was never listed on the open market, and there

may have been some atypical motivation on the part of the seller.

Appellant additionally provided an independent fee appraisal concerning the above referenced sale property. It was reported the sale actually included two (2) lots or parcels, however, the appraisal report made little mention of the second lot and its consideration in the sale and appraisal. The appraisal included information for four (4) sales and two (2) active listings. The appraisal made various adjustments to the respective sale prices to account for differences between the sale properties and the appraisal's subject. The appraisal concluded a total value of \$220,000 for the April 2017 sale property.

Respondent questioned the comparability of some of the sales included in the fee appraisal. Specifically, Sale Nos. 1 and 2 were noted to be located on an inlet with backwater slough frontage, which Respondent contended was not comparable to frontage on the main lake. And Sale No. 3 was located on the west side of the lake more than 65 miles away in an area characterized as superior due to the availability of services, better road access, and closer proximity to Sandpoint. Lastly, Sale Nos. 5 and 6 were actually active listings at the time of the appraisal report.

Respondent acknowledged subject's assessed value increased notably for the 2018 assessment year, however, explained the increase was caused by a couple factors. First, errors were discovered in subject's property records during Respondent's mid-2017 inspection of the property. The ages of the cabin and shed/bunkhouse improvements were reversed in Respondent's records. Correcting this error caused the value of the improvements to increase from \$14,240 to \$36,719. The cause of the increase in subject's

land value was due to a recent sale in the area. The sale property was located approximately 4.5 miles from subject. The lot was described as generally comparable to subject in terms of topography, though with 101 front feet, was noted to have more frontage than subject. The property sold in January 2017 for \$350,000. After removing the value of the associated improvements and adjusting for the difference in front feet, Respondent calculated an adjusted sale price of \$198,683, or \$2,649 per front foot. Subject's bare land value is \$200,500, or \$2,673 per front foot.

Though not used on appeal in the development of subject's valuation, Respondent provided a list of lakefront sales dating back to 2013 from the neighborhood. Three (3) of the five (5) sale properties were improved at the time of sale. Frontages varied from 65 to 657 front feet and sale prices ranged from \$169,000 to \$460,000. Respondent noted each of the sale properties sold well in excess of the respective assessed value at the time of sale, which in Respondent's view suggested assessed values in the area have been below market levels.

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, 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. The sales comparison approach, the cost approach, and the income approach comprise the three (3) primary methods for determining market value. *Merris v. Ada Cnty.*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is commonly valued using the sales comparison approach.

Both parties provided market value information for the Board’s consideration. Appellant’s data consisted of a nearby sale and an associated fee appraisal report for this sale property. Though the information was appreciated, the Board did have a few concerns. First, it was not clear what was involved in the sale referenced by Appellant. According to Appellant two (2) lots were involved in the \$190,000 transaction, however, the fee appraisal report made only modest reference to a second lot. Second, the sale property was never listed on the open market, but rather was “advertised” through word of mouth between former work colleagues. The Board was left with questions on whether the exposure of this property to the open market was typical or close to typical. Lastly, Appellant discussed the seller’s need to sell the property because she was no longer able to manage the remote recreational site. It is not clear if the seller’s heightened desire to

sell affected the sale price. But this does bring into question whether the transaction was a true arm's-length sale in which both parties attempted to maximize their respective interests.

Regarding the fee appraisal report, the Board likewise had serious concerns. Of primary concern was the general comparability of the sales considered in the appraisal. Sale Nos. 1 and 2, which occurred in mid-2016 and late 2015, respectively, were noted to be situated on an inlet, not the main lake. The appraisal failed to adjust for these important value factors. Sale No. 3, though possessing a main lake body frontage, was located in a different neighborhood more than 65 miles away. Again, no adjustment for this location factor was apparent in the appraisal. In some instances the relied on comparisons involved sale properties located on different lakes. Lastly, Sale Nos. 5 and 6 were actually active listings at the time the appraisal was done. Listings can be helpful in estimating certain things related to value questions, however, active listings alone are generally insufficient to reliably conclude market value. In all, the Board was left with too many questions regarding Appellant's value evidence to place heavy emphasis on the data.

Respondent's direct value evidence, consisting of one (1) sale from subject's general neighborhood, was admittedly somewhat light for the Board's preference. However, the transaction did represent the only verified sale during 2017 along the fifteen (15) mile stretch of lake encompassing subject's neighborhood. The sale lot was described as generally similar to subject in terms of topography and beachfront. In fact, the only adjustment suggested was for the sale property having 26 more front feet on the lake than

subject, which supports Respondent's characterization the properties are similar. After the frontage adjustment, Respondent determined an adjusted sale price of \$198,683 for the land. Subject's land value is \$200,500, which appears reasonable given the record in this matter.

Idaho Code § 63-511 places the burden on Appellant to demonstrate error in subject's valuation by a preponderance of the evidence. With the evidence presented in this matter, we did not find the burden of proof satisfied. In addition to the above-referenced recent, proximate sale, Respondent offered a listing of the most recent five (5) sales from subject's neighborhood. This additional sales information was not used to develop subject's assessed value, however, it is interesting to note there has not been a sale below \$1,800 per front foot since 2015. And that sale involved a parcel with 657 front feet, so it is not surprising the price rate was appreciably lower. Appellant requested the Board reduce subject's land value to \$89,500, or roughly \$1,200 per front foot. However, none of the sales in the record, except for a couple older sales with much larger frontages, had sale prices near the level petitioned by Appellant. In short, the Board did not find sufficient support for the value requested by Appellant.

Given the above, the decision of the Bonner County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decision of the Bonner County Board of Equalization concerning the subject parcel be, and

the same hereby is, AFFIRMED.

DATED this 24th day of January, 2019.