

BEFORE THE IDAHO BOARD OF TAX APPEALS

NICHOLAS AND REBECCA OLTEAN,)	
)	
Appellants,)	APPEAL NO. 18-A-1031
)	
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. RP059610010430A. The appeal concerns the 2018 tax year.

This matter came on for hearing October 30, 2018 in Sandpoint, Idaho before Hearing Officer Cindy Pollock. Appellants Nicholas and Rebecca Oltean were 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 \$614,508, and the improvements' value is \$62,870, totaling \$677,378. Appellants contend the correct land value is \$420,000, and the improvements' value is \$70,000, totaling \$490,000.

The subject property is a 1.28 acre parcel with 133 waterfront feet on the eastern

shores of Priest Lake. The beachfront was described as mostly rocky with two (2) small sandy areas. The property is improved with a small cabin constructed in 1950, some wood decking, a dock, and a boat house.

Appellants contend subject's current land value is too high compared to other parcels in the immediate vicinity which have superior beachfronts and generally level topography. Appellants explained a large rock outcropping runs through the middle of the subject lot extending to the waterline. This outcropping was noted to cause subject's beachfront to be rocky. The slope of the lot was characterized as steep, making access to the water somewhat difficult. Subject was also described as suffering from spring flooding issues. Noting subject's lot characteristics, Appellants pointed to the assessed values of the adjacent parcels situated on either side of subject. These neighboring lots were viewed as superior to subject in terms of more level lot topography and flat sandy beachfronts. The assessed land values of these neighboring parcels reflected average value rates of \$4,051 and \$4,544 per front foot. By comparison, and again on a bare land basis before site improvements, subject average land value rate is \$4,523 per front foot. Appellants contended this result was inequitable.

Respondent maintained subject was not valued unfairly compared to the neighboring parcels. It was explained the land value of one (1) of the neighboring parcels was the result of a decision of the Board of Equalization (BOE) reducing the land value following a protest by the property owner. Respondent reported the assessed value was originally \$4,644 per front foot before the BOE adjustment. Regarding the other parcel referenced by

Appellants, Respondent explained the assessed value was the result of an error in the parcel's site rating. In reviewing subject's site rating, Respondent discovered the neighboring parcel should have been valued as a "good" waterfront lot, instead of an "average" lot, like subject. Respondent testified the site rating of the neighboring parcel would be changed for the next assessment year, which would result in a higher assigned land value.

Respondent acknowledged subject is somewhat sloped and the beachfront is not flat and sandy, however, explained subject's topography and beachfront is representative of an "average" lot in the area. Photographs depicting lots with "good", "average", and "fair" site ratings were offered to illustrate the differences between the respective ratings. Respondent maintained subject's "average" site rating was accurate and proper compared to the examples represented in the photographs.

Turning to value evidence, Appellants provided several sources of information. The first was Appellants' purchase of the subject lot at an auction sponsored by the Idaho Department of Lands in August 2017. The State of Idaho owns a number of waterfront lots around Priest Lake and leases these lots to lessees who are allowed to erect improvements on the lots. The improvements remain the property of the lessee. A few years ago, the State began to sell some of these leased lots at auction. The State's process requires an appraisal be completed for each leased lot put up for auction. Minimum bid prices are determined according to the value conclusion reached in the respective fee appraisal. In subject's case, the appraisal determined a lot value of \$505,000, which is the price

Appellants paid for the lot at auction. The improvements were required to be separately purchased from the prior lessee, with the price roughly \$65,000.

Appellants reported speaking with several local real estate professionals, all of whom suggested the value conclusions in the auction appraisals were typically 15% to 20% above market. Appellants agreed with the realtors' opinions regarding the auction appraisals and contended the fact there were no other bidders for the subject lot, was strong evidence the appraisal concluded a value in excess of market levels. Despite believing the price was high, Appellants reported being influenced to purchase the property by strong emotional and historical attachment to the existing old cabin situated on the lot.

Respondent expressed reservations about the State-sponsored auction in general, and the auction appraisal specifically in regards to subject. It was contended the auction sales do not represent arm's-length transactions primarily because the seller is a government entity and therefore has different motivations than a typical market participant. As for the auction appraisal report, Respondent flagged several items of concern. First, the majority of the sales used in the appraisal involved leased lots previously sold by the State at auction. In Respondent's view, using auction prices to develop a value opinion for a lot scheduled to be sold at auction is circular and not representative of best market value appraisal practices. Respondent additionally highlighted errors in the land characteristics of the sale properties detailed in the appraisal, and noted most of the sale properties were located in different areas around the lake. The appraisal did not make adjustments for this, and other important value factors, which was argued to further undermine the reliability of

the resulting value conclusion.

In addition to the auction purchase, and accompanying appraisal, Appellants offered an additional appraisal report. This appraisal developed a value conclusion for only subject's lot with no consideration of the improvements, which hypothetical condition was noted in the appraisal. The appraisal considered information from twenty-one (21) Priest Lake sales which occurred from 2011 through 2017, though only five (5) were directly compared to the appraisal subject. After adjusting the sale prices to account for differences between the appraisal subject and the comparable sales, the appraisal concluded a value of \$537,000.

Similar to the auction related appraisal, Respondent expressed concerns with this latter appraisal. First, the physical characteristics of at least two (2) of the sale properties were erroneous, and two (2) of the sale prices were mis-reported, both of which were noted to distort the reported price rates viewed on a per front foot basis. Next, Respondent pointed out Sale Nos. 1 and 2 were lots located on the southern outlet of Priest Lake with no frontage on the main body of the lake. In Respondent's view, properties situated on the outlet are not comparable to lots around the main lake. Further, one (1) of the "sales" was noted to be still owned by Idaho, and therefore was not a sale at all. And another sale was a private transaction between two (2) neighbors with the property never being listed on the open market. Finally, it was noted most of sales were from the State auctions, which Respondent maintained were not arm's-length or valid market value transactions. The appraisal's failure to adjust for these important factors was argued to render the resulting

value conclusion unreliable.

Finally, Appellants referenced three (3) additional sales characterized as superior to subject in terms of topography and beachfront. The first was a sale situated two (2) lots away from subject. The property sold at auction, though this lot was not a leased lot owned by the State. The property sold in 2017 for \$538,604, indicating an average price rate of \$3,689 per front foot. The other two (2) referenced sale properties, both improved, sold for \$925,000 and \$1,200,000. Appellants removed the estimated value of the associated improvements and calculated residual land value rates of \$4,215 and \$3,270 per front foot, respectively. Respondent disagreed with the comparability of these latter two (2) sales, noting both had “good” site ratings and were located outside subject’s neighborhood on the lake. Respondent also disagreed with the Appellants’ residual land value calculations, and noted the actual current assessed land values for these two (2) parcels are notably higher than the calculations offered by Appellants.

Respondent explained sales from 2016 were used to determine land values for “average” lots in subject’s area for the 2017 assessment year. These sale properties, all located on same side of the lake as subject, varied in frontage from 78 to 160 front feet. The sale prices ranged from \$543,759 to \$1,000,000. After removing the assessed values of the associated improvements, Respondent calculated residual land value indications ranging from \$426,610 to \$830,010, or indicating value rates from \$5,187 to \$5,490 per front foot. Respondent reported only one (1) “average” lot sale during 2017. The sale price indication for the lot value was very close to the 2017 assessed value of the same lot,

indicating the land values in the area had remained steady. Therefore the 2017 valuations were carried forward to the current 2018 assessment year without change.

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 County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is commonly valued using the sales comparison approach.

The parties' extensive efforts in providing relevant market data for the Board's consideration were appreciated. Nevertheless, there were concerns with some aspects of

the information offered. To begin, the Board had reservations regarding the two (2) appraisal reports furnished by Appellants. As detailed by Respondent, the appraisal reports contained numerous critical errors relating to the physical characteristics of the sale properties, and we found it more likely than not that some of the reported sale prices were also erroneous. Further, the sale properties included in the appraisals were located all over the lake, including some on the outlet, yet no location adjustments were made or adequately considered. The appraisals similarly failed to adjust for date of sale despite some sales stretching back as far as 2011. Lastly, the majority of the sales were from State-sponsored auctions, even though there were numerous non-auction transactions available.

On the last point above, it is not the Board's position auction sales should never be considered, but the nature of the specific State-sponsored auctions discussed in this case, are somewhat concerning. To begin, the seller is a government entity whose motivations are likely different from a typical market participant. Next, the transaction itself is unique, wherein the lot is purchased from the State at auction and the attached improvements are purchased from the prior lessee in a separate transaction. In the Board's experience and judgment, this is not how residential property is typically purchased. The Board was also concerned with the motivations of some buyers at these particular auctions, many of whom were specially motivated or situated to purchase the lot which had been leased by the family for many years. Indeed, Appellants expressed being "strongly" influenced by sentimental and historical attachment when deciding to purchase the subject lot. For these

reasons, the Board was hesitant to rely heavily on subject's purchase at auction, as well as the fee appraisal reports which were predominantly developed using auction sales.

The Board was also unpersuaded by Appellants' comparison between subject's land value and the assessed land values of the two (2) neighboring properties. As explained by Respondent, the lower value reflected for one (1) of the referenced neighboring properties was caused by a decision of the BOE reducing the land value, not the result of systematic and inequitable assessment. And the site rating for the other parcel was noted to be erroneous, which error Respondent reported would be corrected for the next assessment year. In all, the Board found no evidence subject was singled-out or otherwise assessed or taxed unfairly and inequitably compared to other like properties in the immediate area.

Better received by the Board was the sales information offered by Respondent. The sale lots shared the same "average" site rating as subject and were similar in terms of general location. And most importantly, the sales were open market, arm's-length transactions between unrelated parties uninfluenced by undue pressure or atypical motivations. After removing improvement values, Respondent calculated residual price rate indications for the sale lots ranging from \$5,187 to \$5,490 per front foot. The adjusted price rates suggest a rather tight range of value for an average waterfront lot in the area. Subject's assessed land value equates to a value rate of \$4,523 per front foot, which is appreciably less than the range of value indicated by the comparable sales.

Appellants bear the burden of proving error in subject's valuation by a

preponderance of the evidence. Idaho Code § 63-511. Given the evidence presented in this matter, we did not find the burden of proof satisfied. Appellants' value evidence was heavily influenced by auction sales, whereas Respondent focused on sales data occurring outside the auctions. Also the value petitioned by Appellants is less than the values concluded in both appraisal reports. In short, Respondent was found to have presented a superior valuation with a clear conclusion of value, and where subject's assessed land value is less than the value indicated by the sales analysis, the Board did not find adequate support for a reduction in value.

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 decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 28th day of January, 2019.