

BEFORE THE IDAHO BOARD OF TAX APPEALS

LEO TAYLOR,)	
)	
Appellant,)	APPEAL NOS. 18-A-1042 &
)	18-A-1043
v.)	
)	FINAL DECISION
CANYON COUNTY,)	AND ORDER
)	
Respondent.)	
_____)	

AGRICULTURAL EXEMPTION APPEALS

These appeals are taken from decisions of the Canyon County Board of Equalization denying appeals of the valuation for taxing purposes on properties described by Parcel Nos. 203440000 and 203430000. The appeals concern the 2018 tax year.

These matters came on for consolidated hearing November 7, 2018 in Caldwell, Idaho before Hearing Officer Cindy Pollock. Appellant Leo Taylor was self-represented. Chief Appraiser Supervisor Greg Himes represented Respondent.

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

The issue on appeal is whether certain land qualifies as land actively devoted to agriculture pursuant to Idaho Code § 63-604(1)(a), an agricultural exemption statute.

The decisions of the Canyon County Board of Equalization are reversed.

FINDINGS OF FACT

Parcel No. 203440000 (Appeal No. 18-A-1042)

The assessed land value for this 5.19 acre parcel is \$226,080. Appellant contends the whole parcel is actively devoted to agriculture and should be assessed accordingly.

Parcel No. 203430000 (Appeal No. 18-A-1043)

The assessed land value for this one (1) acre parcel is \$37,460. Appellant contends the whole parcel is actively devoted to agriculture and should be assessed accordingly.

The two (2) subject parcels are contiguous, basically unimproved, and located in Caldwell, Idaho. For purposes of this decision, the land at issue will be referred to singularly as the subject property. Its area encompassed the total of both parcels.

Appellant noted the subject property has been assessed as agricultural land devoted to the grazing of cattle since at least 2013. However the land was assessed at market value, as rural industrial acreage, for the current assessment year. The agricultural exemption was removed because Respondent did not observe fencing or cattle on the property when the property was visited during calendar year 2018.

Appellant explained the property was fenced and cattle grazed the property throughout 2017. It was noted sections of the fencing, plus some trees, were removed by a neighboring property owner sometime in early 2018 without Appellant's knowledge or consent. Despite large portions of the fence being removed, Appellant reported cattle were still grazed on the subject property during 2018. Appellant pointed out the fencing along Hoffman Lane remained in tact, which prevented cattle from accessing the roadway and nearby Caldwell Boulevard.

An employee of Appellant's, as well as a local realtor testified at hearing to witnessing cattle grazing on the subject property in 2017 and 2018. In addition, Appellant provided a letter from another realtor. This realtor reported visiting the subject property on

three (3) separate occasions with clients. He observed cattle of various ages grazing in a fenced area around an old building situated on the property. The same realtor also indicated he first noticed fencing had been removed in July 2018 during another visit to the property.

Appellant also furnished livestock purchase and sale records dating back to 2015 in an effort to demonstrate the operation was a for-profit business. The records indicated during calendar year 2017 Appellant purchased fourteen (14) head of cattle from Treasure Valley Livestock for \$4,181.40 and sold twelve (12) head for \$7,279.90.

Respondent maintained removing the agricultural exemption was proper because during multiple visits to subject, little fencing and no cattle were observed on the property. Respondent acknowledged cattle had grazed the property in prior years, but contended such use did not continue into 2018. Respondent argued without a proper fence the subject property could not be put to grazing use because it did not conform to the county's Herd District rules, which requires herds be fenced. It was noted 95% of the county is in Herd District status, while the remaining portions remain as open range tracts.

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, hereby enters the following.

The issue in this appeal is whether certain land qualifies for special valuation

treatment as land actively devoted to agriculture. Based on the below, we find the land on both parcels was actively devoted to agriculture in 2017 and should therefore be assessed as such for the 2018 tax year.

Idaho Code § 63-604 provides in pertinent part,

(1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) the total area of such land, including the home site, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables.

(ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or

(iv) It is in a cropland retirement or rotation program.

...

(7) As used in this section:

(a) "Contiguous" means being in actual contact or touching along a boundary or at a point, except not area of land shall be considered not contiguous solely by reason of a roadway or other right-of-way.

(b) "For-profit" means the enterprise will, over some period of time, make or attempt to make a return of income exceeding expenses.

First, in order to qualify for the agricultural exemption under subsection (1)(a) above, the total land area must exceed five (5) contiguous acres. The Board found the area

grazed here in 2017 did in fact encompass both parcels, or 6.19 contiguous acres.

The exemption statute requires the land be put to a qualifying agricultural use. In this case, such qualifying use was the grazing of livestock to be sold as part of a for-profit enterprise. Appellant and other witnesses testified the property was fully fenced and cattle were grazed in calendar year 2017. It was not until sometime after January 1, 2018 when portions of the fencing were mistakenly removed, though Appellant maintained cattle were still grazed on at least some of the property after the fence was removed. And lastly, the Board found the record demonstrated Appellant's ongoing enterprise did attempt to make a profit and likely succeeded at the effort during 2017.

Respondent's contention the land does not qualify for the agricultural exemption on the basis of the county's Herding District requirements is misguided. The controlling law regarding the fair assessment of agricultural land is Idaho Code § 63-604, not a local or county rule related to livestock fencing. Whether a lack of fencing violates a county rule or ordinance is a separate issue outside this Board's jurisdiction. Fencing may indicate or benefit a grazing use, but its presence or absence might also have little bearing on whether the associated land satisfies the requirements of the relevant code section. The agricultural exemption statute makes no mention of a fencing requirement in order for grazed land to qualify for exempt status. Though a fenced herd may be more easily controlled and managed by an operator, such is not required for purposes of the agricultural land exemption. Where the Board found ample evidence of cattle grazing during 2017 over the subject land, we find the land at issue is properly assessed as land actively devoted to

agriculture. The grazing use was noted to continue, at least to some degree, in 2018. The decisions of the Canyon County Board of Equalization are reversed accordingly with the assessment treatment in prior years continued for 2018.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Canyon County Board of Equalization concerning the subject parcels be, and the same hereby are, REVERSED. The land associated with the subject parcels is to be assessed for 2018 as land actively devoted to agriculture.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides under certain circumstances that the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 8th day of February, 2019.