



Currently, the buildings sit unused in an unfinished state, with the ultimate intent to one day be converted into a single family residence. There was some discrepancy between the parties in terms of the square footage of the buildings, with Respondent reporting a total size of 2,790 square feet, which includes some space in the basement. Appellants contended the barber shop/bath house contains 649 square feet and the store contains 1,144 square feet, with no space in the basement.

Appellants began by detailing some history surrounding the subject property, as well as, the Silver City area in general. Appellants were keen to point out Silver City is not actually a "city", but rather the remnants of an old mining town. The subject buildings were constructed on the Potosi Mining Claim during the 1850's and were purchased by Appellants' ancestors in 1863. The family operated the store until the 1960's. Appellants acquired the property in 1984 from other family members and have held it since that time.

As for general history of Silver City, Appellants highlighted a few different items starting with the Bureau of Land Management (BLM). Appellants explained during the early 1970's, the BLM claimed building owners were trespassing on federal government land. In response, the owners organized, and with help from various government officials, reached an agreement with the BLM to purchase the disputed land. Soon afterward, Silver City property owners formed a homeowners' association, while Owyhee County established a historic district, as well as the Owyhee County Historic Preservation Commission (Commission). Together, these parties established rules concerning maintenance and use of properties situated within the historic district, which continue today.

In addition to the area's unique history, Appellants described other characteristics

distinct to life in Silver City. It was noted the homeowner's association provides potable water, fire protection, winter watchman and watchman quarters, and other related expenses for the benefit of local residents. Further, Silver City's elevation of 6,200 feet above sea level limits automobile access to roughly five (5) months of the year. In addition, the area lacks access to schools and full year-round law enforcement support. The area also lacks access to an electrical grid, or natural gas system. And only two (2) residents have a telephone land line. In Appellants' view, these features and the maintenance and building restrictions imposed by the Commission are singular to Silver City, thus making it nearly impossible to compare it to anything else in Idaho.

Focusing specifically on the subject property, Appellants described the improvements as having fallen into disrepair. Beginning in the early 2000's, Appellants obtained approval from the Commission to commence work to transform the structures into a residence. In 2004, approval was granted to work on the foundation. The original support structure was a series of upright posts and cross beams. Appellants employed modern construction techniques for the new foundation, including concrete footings and concrete foundation, which was noted to vary "from two feet to over nine feet 8 inches wide." The variance in the foundation was necessary because the buildings were constructed on a slope. From the front, the buildings appear to be single story structures, however, from behind they appear to be two (2) stories. Appellants explained the lower "story" serves simply as the support structure for the main level and has no other functional use.

In 2005, Appellants were granted approval to modify the roof. Specifically, Appellants installed a single roof structure to cover both buildings, which work was completed between

2007 and 2008. Also during this period, Appellants completed some back fill and leveling work, as well as pouring sheer walls. Reconstruction of the porches was completed in 2009. Work stopped, however, in June 2009 following a stop-work order<sup>1</sup> issued by a county building official, which work has remained frozen ever since. Current photographs of the property show it to be mostly unfinished and in relatively poor condition.

After receiving subject's 2019 assessment notice, Appellants visited with the county assessor to question the valuation. Following this meeting a county appraiser visited the property to perform an inspection of the premises. The appraiser took measurements, as well as, interior and exterior photographs of the buildings. Appellants also learned at that time subject had been assessed as a two-story building. Soon after the inspection, Appellants received a letter from the assessor which stated the total value had been reduced from \$121,048 to \$79,768. The inspection revealed subject to be a one-story structure, instead of two-stories as reflected in the county's prior records, and further that the condition rating should be "poor" instead of "fair". The reduction was insufficient in Appellants' view where they have not been able to use or work on the property since 2010.

Respondent explained Silver City is located in a part of the county referred to by the assessor's office as Area 4. During 2018, information on only two (2) sales were reported in Area 4. On appeal, physical details concerning the sale properties were not shared, however, it was reported the assessed values of those properties were only 62% and 49% of the respective sale prices. Based on these sales, Respondent concluded values needed to be increased. For 2019, subject's land value increased 20%, and after the above referenced

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<sup>1</sup>The stop-work order was lifted in late June 2009, however, Appellants anticipated further difficulty with the Commission and building officials, so did not attempt further rehabilitation of the buildings.

inspection, the value of the improvements was reduced.

In discussing the subject property, Respondent contended the buildings are habitable and therefore should be assessed as a residence. Appellants contested the characterization and pointed to the fact there is no water, electricity, heat, or a sewer/septic system. It was noted the buildings have never been lived in and currently remain unsafe for human habitation. Appellants estimated it would cost at least \$40,000 in materials alone to rehabilitate the buildings into safe living space.

#### 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 in fee simple interest, 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.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2019 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 three (3) recognized methods of estimating market value include the sales comparison approach, the cost approach, and the income approach. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Neither party offered a complete appraisal analysis using these

approaches, though the exhibits show Respondent did use a cost approach in arriving at subject's current valuation as a residence.

Undoubtedly, Silver City is a unique community and neighborhood. Admittedly finding comparable sales for the area and its private properties is a difficult task. That being said, the law in Idaho requires all non-exempt property be assessed annually at market value. Idaho Code § 63-203.

In looking at the parties' respective evidence and arguments, it becomes apparent a key disconnect between the parties' value positions centers on whether subject's improvements are considered habitable. Respondent considered the structures to be in a liveable condition, that is to be a dwelling or residence, whereas Appellants maintained such is not the case. For the reasons below, the Board agrees with Appellants that the subject buildings should not be considered living space.

To begin, the buildings are not well equipped with electricity, water, heat, or sewer/septic services. All of these, at least to some degree, would normally be hallmarks of a residence suitable for extended human habitation. It is also worth noting, according to the record the subject buildings have never been lived in. Nor does it appear from the record the buildings are currently safe to so occupy. Appellants have done work to stabilize the structure by replacing the foundation with modern construction materials and have also installed a shared roof over the two (2) buildings, but further renovation work and the interiors remain largely unfinished. The state of the improvements has remained largely unchanged for a number of years. In their current state the buildings may be unsafe to exit quickly in the event of an emergency, with the only escape windows located along the front and rear walls. In the

Board's view, subject's improvements more resemble a large shed than a residence at this stage.

In appeals to this Board, Appellants bear the burden of proving error in subject's assessment by a preponderance of the evidence. Idaho Code § 63-511. Given the evidence presented in this matter, we find the burden of proof satisfied. While the buildings may one day be converted into a livable or seasonal residence, they currently conform poorly with traditional notions of finished living space, even for a rural area. And because Idaho Code § 63-208 requires property be assessed with major consideration given to a property's actual and functional use, we find the value of the improvements should be further reduced.

Based on the above, the decision of the Owyhee County Board of Equalization is modified to reduce the value of the improvements to \$30,000.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Owyhee County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in the value of the improvements to \$30,000, with no change to the \$18,118 land value, for a final market value of \$48,118.

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 Appellants.

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 19<sup>th</sup> day of November, 2019.