

BEFORE THE IDAHO BOARD OF TAX APPEALS

KELSEY TRUST,)	
)	
Appellant,)	APPEAL NO. 19-A-1202
)	
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 on property described by Parcel No. SC009400000060A. The appeal concerns the 2019 tax year.

This matter came on for hearing October 16, 2019 in Sandpoint, Idaho before Hearing Officer Cindy Pollock. Attorney Peter Smith appeared at hearing for Appellant. Bonner County Assessor Donna Gow 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 certain residential improvements.

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

FINDINGS OF FACT

The subject improvements' assessed value is \$313,563. Appellant contends the correct value is \$135,300.

The privately owned subject improvements are situated on land leased from the U.S. Forest Service. The property is located on the west side of Priest Lake. More specifically, Appellant holds a Forest Service Use Permit, which is a license to use a waterfront parcel for recreational and residential purposes. The permit further allows for the construction of certain

residential and recreational improvements on the site.

The subject improvements include a 2,018 square foot residence, a 464 square foot detached garage, a waterfront pier, boat dock, and boat slip, and two (2) boat lifts. The two (2) level residence was originally constructed in the 1940's, though was partially remodeled in 2015. The modernization work focused on the main level. The upper level remains in mostly original condition.

Appellant offered an independent fee appraisal report of the subject property prepared by a local appraisal firm. The retrospective appraisal had an effective valuation date of January 1, 2019. In describing the general Priest Lake neighborhood, the appraisal highlighted some notable differences between the west side of the lake and the east side. One such difference was ownership, with the federal government owning most of the land on the west side of the lake, and the State of Idaho owning much of the land on the east side. The appraisal found this difference in ownership affected market activity due to the vastly divergent lease rates.

Following a change in federal law in 2014, which adopted an adjustable fee tier schedule, the federal use permit fees dropped dramatically. By contrast, lease rates for parcels on the east side of the lake owned by Idaho are based on market value and can fluctuate annually. The result is permit fees on the west side of the lake typically run in the range of \$5,300 to \$6,400 per year, whereas fees on the east side of the lake generally range from \$13,000 to \$23,000 per year.

The fee appraisal explained permit holders on the west side of the lake realize a significant rent savings due to the below-market federal use permit rates compared to

leasehold parcels on the east side. This rent savings was characterized as an intangible asset, that while it would be included in a sale/transfer, purportedly represents value above that of the real property and improvements. In other words, the use permit carries an intangible value which Appellant argued must be separated from the value of the improvements for purposes of assessment.

The fee appraisal further noted several years ago the State of Idaho began auctioning off leasehold lots on the east side of the lake. This has created a new mixture of leased cabin sites and privately owned parcels. Over the same period, the federal government has not divested its ownership interests on the west side of the lake. This distinction was key in the fee appraisal's analysis of subject's neighborhood.

In selecting sales to compare to subject, the fee appraisal was careful to note a leasehold interest in land and its difference compared to an ownership interest in fee simple. For instance, fee simple ownership includes perpetual ownership, an ability to finance, a right to sell, as well as other benefits. Appellant's special use permit, by contrast, comes with no such rights and specifically prohibits using subject as a primary residence. With this in mind, the appraisal analyzed seven (7) sales with the same type of use permit as subject. One (1) of the sales was subject's prior purchase in November 2014 for \$386,934. The other sales were located on the west side of the lake, like subject. Sale prices ranged from \$154,000 to \$546,725. Quantitative adjustments were made to account for noted differences between subject and the sale properties, such as residence size, bathroom count, effective age and condition, garages, outbuildings, and other features. Adjusted prices ranged from \$266,610 to \$542,911, with an average adjusted price of \$284,140. This analysis yielded a value

estimate of \$435,000 for subject's improvements.

Using the same above sales, the fee appraisal included a bracketing analysis. In this model, subject was compared on the basis of bathroom count, age and condition, and garage and/or dock improvements, for which qualitative adjustments were made. Summing the values of subject's various improvements, this analysis suggested a value of \$390,000 for subject's tangible improvements. The appraisal weighed this value indication with the prior estimate of \$435,000 and concluded a market value of \$410,000 for subject's improvements.

The appraisal next developed a table comparing the above referenced sale prices with their respective 2019 assessed values. The sale cabins sold from \$125 to \$250 per square foot. In each instance, however, the assessed values, ranging from about \$36 to \$97 per square foot, were substantially lower. On average, the appraisal determined assessed values were roughly 33% of the sale prices. Subject's assessment indicated a rate of near \$128 per square foot, or at 76.5% ($\$313,563 / \$410,000$) of market value. Appellant argued this was an inequitable assessment. It was contended, to be equitable with other properties in the area, subject should be assessed at 33% of market value, or \$135,300 ($\$410,000 \times .33$).

Respondent's analysis was likewise focused on recent sales of waterfront property around Priest Lake. Respondent offered information from three (3) improved sales for comparison with subject. The sale cabins were characterized as similar to subject in terms of construction quality and condition. Sale prices ranged from \$425,000 to \$960,000. In an attempt to isolate the value attributable to the sale cabins, Respondent removed assessed land and other improvement values from the respective sale prices. The result was a price range of \$255,082 to \$365,425 for the cabins. Respondent concluded a value of \$258,585 for

subject's cabin. Details concerning the determination of assessed values for subject's other improvements were not shared.

Appellant disagreed with the selection of sales used in Respondent's analysis. First, two (2) of the sale properties were located on the east side of the lake, which was noted to be a different neighborhood than the west side. Second, Appellant highlighted the fact all of the sales were of fee simple ownership interests, none were associated with leaseholds or use permits. In Appellant's view, without adjustments for these factors, Respondent's valuation analysis was flawed.

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 submitted by the parties, 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 sales comparison approach, the income approach, and the cost approach represent the three (3) primary methods for estimating market value. *Merris v. Ada Cnty.*, 100 Idaho 59, 63,

593 P.2d 394, 398 (1979). The sales comparison approach, which examines recent sales of similar property and considers adjustments for differences compared to the subject property, is commonly used to value residential property.

Appellant's appraisal report developed two (2) sales comparison approach analyses; one (1) qualitative in nature, and one (1) quantitative. Both considered the same seven (7) sales from the west side of Priest Lake. In the quantitative analysis, each sale property was directly compared to subject and appraisal adjustments were made. This model concluded a value estimate of \$435,000. The qualitative analysis rated the sale properties as superior or inferior compared to subject based on several identified criteria, resulting in a bracketing of value indicators. This analysis yielded a value estimate of \$390,000. The appraisal reconciled these two (2) indicators and concluded a market value of \$410,000 for subject's tangible improvements.

The fee appraisal then compared the ratio between the sale prices and their respective 2019 assessed values. In each instance, the assessed cabin values were notably less than the sale prices. Indeed, the appraisal calculated an average assessment ratio of 33%. Appellant argued in order to be equitable, subject's cabin should likewise be assessed at 33% of market value, or \$135,300. While Appellant's concerns toward equitable assessment are understandable, the Board is not convinced subject was inequitably assessed. We are even less persuaded subject should be assessed at 33% of market value.

First, it is difficult to conclude subject was singled out or otherwise discriminated against in its assessment based on a sample size of seven (7) sales, one (1) of which was subject's own purchase in 2014. There could be reasonable justifications for some of the lower

assessment rates reflected in the comparison table, such as age/condition, quality, size, or some other physical attribute of the particular sale cabin. Subject's superiority is even suggested by the appraisal itself, which estimated subject's value at \$410,000. This value is higher than all except (1) sale price. "[A]n individual who claims that a selective assessment procedure had deprived him or her of the protection guaranteed by the state constitutional requirement of uniformity of taxation must show a deliberate plan to discriminate based upon an unjustifiable or arbitrary classification." *Xerox Corp. v. Ada Cnty. Assessor*, 101 Idaho 138, 144, 609 P.2d 1129, 1135 (1980). Based on the limited data here the Board does not find subject was inequitably assessed in violation of the constitutional requirement of uniform assessment and taxation.

The Board is likewise disinclined to adopt Appellant's value position of \$135,300, which represents 33% of market value estimated by the fee appraisal. As noted above, all non-exempt property is to be assessed annually at full market value for purposes of property taxation. "The law . . . requires the assessor to adhere to the statutory standard of full cash value. He may not adopt another standard of value, even though it be applied uniformly in the taxing unit." *Boise Community Hotel v. Bd. of Equalization*, 87 Idaho 152, 159, 391 P.2d 840, 844 (1964). With market value as the statutory standard, the assessor is not free to depart from such standard and adopt another, nor are we. Subject must be assessed at market value.

Turning now to Respondent's valuation analysis, some concerns were identified. First, all Respondent's sales involved fee simple ownership transfers, and it does not appear how Respondent considered the difference between holding a leasehold or use permit interest in land and holding a fee simple ownership. In basic terms, a holder of a fee simple interest is

entitled to the full bundle of property rights capable of private ownership. Whereas a leaseholder is restricted by the terms of the lease agreement. Also, it was not fully clear how location factored into Respondent's analysis. As the fee appraisal described in detail, the west side of the lake is quite different than the east side of the lake, which side is more developed and located closer to services and other amenities. As location is often cited as a key consideration in real property appraisal, the Board expected to see some more obvious consideration of this factor in Respondent's appraisal. Lastly, Respondent's method of extracting assessed land and other improvement values from sale prices was viewed with some caution.

Despite the above concerns, Respondent did offer three (3) recent sales in support of subject's assessment and did make adjustments for purposes of comparison with subject. Sale prices ranged from \$425,000 to \$960,000, with the adjusted cabin prices ranging from \$255,082 to \$365,425. Subject's cabin was assessed for \$258,585, which is on the lower end of the range indicated by Respondent's sales analysis.

Idaho Code § 63-511 places the burden on Appellant to demonstrate error in subject's assessed value by a preponderance of the evidence. Given the evidence presented in this matter, we did not find the burden of proof satisfied. As discussed earlier, Idaho requires taxable property be assessed at market value, not some lesser value. Appellant's appraisal report, which the Board found to be a strong indicator of subject's market value, estimated a final value of \$410,000. The value estimate was based on a fairly thorough consideration of multiple sales from the west side of the lake. These sale properties were also occupied and used pursuant to a special use permit like subject. In short, the Board favorably viewed the fee

appraisal's analysis of subject's market value, however, the Board did not find the report to offer good support for a reduction in subject's assessed value. Further, it was not lost on the Board that subject's current assessment of \$313,563 is less than its purchase price of \$386,934 some five (5) years ago. This last fact despite a generally appreciating real estate market. In all, the Board did not find sufficient cause to disturb subject's 2019 assessment.

Based on 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 19th day of December, 2019.