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Thompson Development v. Idaho Board of Tax Appeals Appellant's Brief Dckt. 39265

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STATEMENT OF THE CASE

A. Nature of the Case.

This appeal arises out a final judgment by the trial court on the issue of whether the Appellant, THOMPSON DEVELOPMENT, LLC, an Idaho limited liability company (hereinafter “Thompson Development”) is entitled to the agricultural exemption for its farmland as provided under I.C. § 63-604 for the tax years 2009 and 2010. While several issues were raised by the Respondent during the proceedings below, the trial court made its determination based upon the issue of zoning, finding that the local zoning ordinance prohibited agricultural use on the farmland and therefore no exemption could be granted. Appellant argues that the zoning does not prohibit agricultural use of the farmland, and in the alternative, if the zoning ordinance is found to prohibit agricultural use, such prohibition is a violation of Thompson Development’s due process rights and therefore is invalid.

B. Course of Proceedings and Disposition.

Thompson Development appealed its 2009 tax assessment, which denied the agricultural exemption for a portion of its farmland, to the Latah County Board of Equalization (hereinafter “BOE”). A hearing was held in front of the BOE for the 2009 assessment on June 29, 2009. (R. Vol . II, pg. 228) The BOE upheld the Assessor’s denial of the agricultural exemption and Thompson Development appealed to the Idaho Board of Tax Appeals (hereinafter “BTA”). BTA held a hearing on the matter and issued a final decision and order upholding the BOE’s decision for the 2009 tax year. BTA’s decision however was not rendered until after the deadline for

contesting the 2010 tax year assessments. The County again denied the agricultural exemption for the same portion of Thompson Development's property for tax year 2010. Thompson Development appealed the 2010 tax assessment to the BOE and a hearing was held on July 12, 2010. Because BTA had not made a decision on the 2009 tax year appeal, the BOE again denied the exemption for 2010. The BTA then issued a decision dated July 12, 2010, affirming the BOE's decision and denying the agricultural exemption. (R. Vol. I, pg. 21) Thompson Development then filed two Petitions for Judicial Review on August 20, 2010: one appealing BTA's decision for the 2009 tax year (Latah County Case No. 2010-00890); and the other appealing the BOE's decision for the 2010 tax year (Latah County Case No. 2010-00891). The Petitions were consolidated by the trial court on December 22, 2010. (R. Vol. I, pg. 50) Thompson Development and the Respondent both filed motions for summary judgment with the trial court on December 22, 2010 and December 23, 2010, respectively. Multiple hearings were held on the motions and ultimately the trial court rendered a decision granting summary judgment to the County and denying Thompson Development the agricultural exemption on June 30, 2011. A Notice of Appeal was timely filed and the issue is now before this Court.

C. Statement of Facts

The Thompson family has owned and farmed hundreds of acres in and adjacent to the City of Moscow for well over 50 years, including the farmland that is the subject of this appeal. (R. Vol. II, pg. 218, P. 9) The farmland in question is part of a platted subdivision approved by the City of Moscow in 2008 and slated to be ultimately developed and sold for residential building lots,

commonly known as Phases I-III of Indian Hills VI Addition to the City of Moscow. See Appendix A for a copy of the recorded plat. (R. Vol. I, pgs. 77-78) All three phases are contiguous, adjacent, and connected to one another and combined total approximately 13.88 acres in size as of January 1, 2009, and 15.97 acres in size as of January 1, 2010.¹ (R. Vol. I, pg. 74, P. 6) See Appendix B for an illustration of the farmland in Indian Hills VI Addition. (R. Vol. II, pg. 199) Additionally, these approximately 15 acres are contiguous, adjacent, and connected to nearly four hundred acres of property owned and farmed by the Thompson family, principals and predecessors in interest to Thompson Development. (R. Vol. I, pg. 74, P. 7)

The County denied the agricultural exemption on the 31 lots in Phase I still owned by Thompson Development (of the original 39 lots). (R. Vol. I, pg. 33) These 31 lots have a combined total area of 4.91 acres. The 4.91 acres so identified by the County are hereafter referred to as the “Target Property,” and the combined three phases, including the Target Property, and constituting approximately 15 acres, are hereafter referred to as the “Entire Property.” The County assessed additional tax on the Target Property based on a residential valuation, without the benefit of the agricultural exemption, and Thompson Development paid the County \$59,476.48, over and above the amount it otherwise would have been required to pay if the agricultural exemption had been recognized. (R. Vol. I, pg. 75, P. 19)

¹ As of December 31, 2008, the Petitioner owned 13.8 acres, consisting of Phase I lots and the majority of Phase II and Phase III lots. Approximately 9 parcels were inadvertently left out of the December 31, 2008 deed and were later conveyed to the Petitioner upon discovery in 2009. Further, seven lots were sold in the subdivision from 2008 through December 31, 2009. As of January 1, 2009, the Petitioner owned 13.88 acres. Additional lots were conveyed to Petitioner in September 2009, resulting in Petitioner owning 15.97 acres as of January 1, 2010. The Petitioner’s principals and related family businesses own the adjacent approximately 400 acres. (R. Vol. I, pg., 74).

Although infrastructure improvements have been installed in a portion of the Target Property, Thompson Development used, prepared, and dealt with the entire 15 acre parcel in customary and reasonable fashion for agricultural purposes during relevant times in 2008 through 2010. Thompson Development and its principals and predecessors in interest have farmed the property, along with approximately 400 adjacent acres of ground, for over 50 years. (R. Vol. I, pg. 74, P. 7) (R. Vol. II, pg. 218, P. 9) In early 2008, Thompson Development sought and obtained approval for phased development of the ground, and began some preparatory development work and sold a few lots. Thompson Development has continued to view and use the remaining lots as farm ground, with some intermittent, forward-looking preparatory work being done for future residential use in and around farming cycles and farming operations. The infrastructure improvements performed on the 4.91 acres denied by the County, were done at times when no specific agricultural work was needed during customary agricultural cycles. Ultimately, the ground was properly prepped and crops were ultimately farmed, on the property during relevant times, and the ground qualified for the exemption. (R. Vol. I, pgs. 74-75)

The infrastructure work that was done to improve the public rights of way located in the Target Property consisted of paving the public streets, and installing sidewalks and utilities within the rights of way (which are not owned by Thompson Development and therefore are not part of the Target Property) and to the lot boundaries in the Target Property. (R. Vol. II, pg. 187, P. 6-7) None of the infrastructure improvements installed in the Target Property interfere with the typical farming operations of Thompson Development. (R. Vol. II, pg. 187, P. 6-8) Thompson Development directed the contractor installing the improvements to be sure to leave

the Target Property ground in proper condition to continue the traditional farming operations that had been done there and would continue to be done there. (R. Vol. I, pg. 74, P. 10) In the fall of 2008, the Target Property, like the rest of the Entire Property, was prepared for spring planting in customary fashion. That fall, Thompson Development chisel plowed most of the Entire Property, including the Target Property, in further preparation for spring planting and also to help contain runoff, all of which are customary farming practices and purposes. In the spring of 2009, the Entire Property was planted in spring wheat. In the summer of 2009, the Entire Property spring wheat was harvested. In the fall of 2009, the stubble was left standing on the Entire Property for erosion control as is a customary practice. In the spring of 2010, approximately five acres, including the Target Property, was seeded to grass for grass-hay production, and the remainder of the Entire Property was planted in peas. (R. Vol. I, pgs. 74-75, Ps. 11-18)

In the summer of 2010, the approximately five acres seeded to grass-hay was not cut because feed hay is not customarily cut the first year in order to allow for proper plant development. (R. Vol. I, pg. 75, P. 17) In 2010, the remainder of the Entire Property was harvested.

The County has never alleged or stated that the Target Property failed to produce a yield of grain or feed crops for tax years 2009 and 2010.

It is undisputed that Target Property consists of three separate zoning designations: Moderate-Density Residential, Medium-Density Residential and Multiple-Family Residential under

the City of Moscow Zoning Code. Thompson Development recorded two different sets of Covenants, Conditions, and Restrictions to represent the zoning designations. Both sets of Covenants, Conditions and Restrictions, recognize Thompson Development's right to continue agricultural use of each lot up until the time it is transferred to a buyer for residential purposes. In relevant part, they provide: "Each owner of each lot hereby acknowledges that it is adjacent to farmland and that Declarant intends to continue to farm said farmland for the foreseeable future. Each owner further agrees not to take any action that would impede the Declarant's farming operation." (R. Vol. I, pg. 82, Art. III, P. 3; pg. 89, Art. III, P. 2) The covenants further state that the Declarant [Thompson Development] reserved the right to farm the adjacent property: "FURTHERMORE, it is understood that the Declarant owns the adjacent farmland and may develop said land. In the meantime, however, Declarant shall continue farming the land. Lot owners agree not to impede in the development or farming of the land by the Declarant." (R. Vol. I, pg. 87, Art. VIII, P. 4; pg. 94, Art. VIII, P. 4)

The trial court determined that the City of Moscow's Zoning Code prohibited agricultural use of the Target Property based upon its zoning designations. The City of Moscow's Zoning Code states in part that the zoning code is an exclusive zoning ordinance, "wherein the stated uses are the only uses which are permitted in each zoning district." (Title 4, Sec.11-5, Moscow Zoning Code) Agricultural use is not a specifically permitted use under the Target Property's zoning designations. (Title 4, Sections 2-6 (B), 2-7 (B), 2-8 (B), Moscow Zoning Code) The City of Moscow's Zoning Code also has a provision for legal non-conforming uses, which states that

the use cannot be discontinued for a period of more than 30 days or the right to the continued use is extinguished. (Title 4, Section 1-8, Moscow Zoning Code)

The City's Zoning Administrator, Bill Belknap, determined that Thompson Development was not in violation of the City of Moscow's Zoning Code because any period of 'discontinuance' referred to in 2008, was not dissimilar from common and typical agricultural practices. (R. Vol. II, pg. 224, P. 3) Mr. Belknap explained: "Further, no new use was established that formally extinguished the prior historical agricultural use." Id.

The County originally represented to Thompson Development's legal counsel that the Target Property would be given the agricultural exemption if the Target Property was farmed. (R. Vol. I, pgs. 99-100, P. 2-4) The property was farmed, and the County subsequently denied the agricultural exemption.

ISSUES ON APPEAL

- I. Was the Target Property actively devoted to agriculture and therefore entitled to the agricultural exemption under Idaho Code §§ 63-602K and 63-604 for tax years 2009 and 2010?
- II. Does the City of Moscow's Zoning Code prohibit agricultural use of the Target Property and therefore prevent Thompson Development from qualifying for the agricultural exemption?
- III. Does application of the City of Moscow's Zoning Code violate Thompson Development's due process rights?

- IV. Whether or not the trial court erred as a matter of law in denying Thompson Development an agricultural exemption on the Target Property.

STANDARD OF REVIEW

This case is an appeal of the grant of a summary judgment motion. “On an appeal from the grant of a motion for summary judgment, this Court’s standard of review is the same as the standard used by the district court originally ruling on the motion.” Boise Tower Assoc., LLC v. Hogland, 147 Idaho 774, 779 (2009). Summary judgment is appropriate “if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” I.R.C.P. 56(c) If the evidence presented shows no disputed issues of material fact, then all that remains are questions of law, over which this Court exercises free review. Mendenhall v. Aldous, 146 Idaho 434, 436 (2008). “The Supreme Court exercises free review over issues of statutory interpretation.” Taylor v. Maile, 146 Idaho 705, 711 (2009).

ARGUMENT

I. The Target Property was actively devoted to agriculture and was entitled to the agricultural land exemption under Idaho Code §§63-602K and 63-604 for tax years 2009 and 2010.

Idaho Code § 63-602K identifies property exempt from taxation, including the speculative portion of land actively devoted to agriculture. Idaho Code § 63-604 defines ‘land

actively devoted to agriculture' and sets forth additional requirements for the exemption, stating in relevant part as follows:

(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 homesite, 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; . . .

(7) As used in this section:

(a) "Contiguous" means being in actual contact or touching along a boundary or at a point, except no area of land shall be considered not contiguous solely by reason of a roadway or other right-of-way.

I.C. § 63-604.

A. Total Area Requirement

It is undisputed by the County that the Entire Property exceeds 10 acres in total area. In determining whether farmland meets the threshold of five acres, adjacent, contiguous acreage can be included.

The County unilaterally attempted to carve out, or target, the Target Property and consider it separately from the rest of the Entire Property for the purposes of the agricultural exemption without lawful effect or justification. The Target Property is clearly contiguous with the rest of the Entire Property. "Contiguous," means being in actual contact or touching along a boundary or at a point, except "no area of land shall be considered not contiguous solely by

reason of a roadway or other right-of-way.” I.C. § 63-604(7)(a) The Target Property is in actual contact with and touches the remainder of the Entire Property at several points and along several boundary segments. (See Appendix A, also R. Vol. I, pg. 77) Additionally, the County has not challenged the overall accuracy of the map and its depiction of contiguous lands. Finally, Appendix A is a self-authenticating record of survey kept in the records of the Latah County Recorder.

The designation of the Target Property as part of “Phase I” by Thompson Development and the County is solely for the purposes of the future residential development use of the property, and the designation of assessment parcels by the County is for the convenience of the Assessor. Neither purpose for the artificial targeting and segregation of the Target Property is determinative under I.C. § 63-604. Nowhere in the definition of contiguous acreage or the five acre requirement does section 63-604 state that the property must also be designated all within one Assessor parcel designation or subdivision designation. In fact, the legislature in 2006 amended section 63-604, in part, by adding subsection 6 to prevent these sorts of development designations from defeating the agricultural exemption. Subsection 6 provides: “*For purposes of this section*, the act of platting land actively devoted to agriculture does not, in and of itself, cause the land to lose its status as land being actively devoted to agriculture if the land otherwise qualifies for the exemption under this section.” I.C. § 63-604(6) (emphasis added) The legislature also included the same language in I.C. § 63-602K(2). Therefore, designations made for future residential development use are not controlling for the purposes of I.C. § 63-604, and the Target Property is not separate from the Entire Property. The 5-acre issue is a red herring.

Adopting the County's argument on this issue would lead to absurd results. If the County were allowed to simply designate areas of ground less than 5 acres in size as separate parcels and deny the exemption, then the entire statutory scheme established by the legislature would be obliterated, and the result would be absurd. The County could, by fiat, designate a 100-acre perfectly square portion of farm ground as being 25 parcels 4 acres in size, and therefore destroy the exemption for an entire 100-acre parcel that should otherwise be exempt under the legislative framework. "Rules of statutory construction dictate that a reviewing court shall not interpret a statute in a manner that leads to an absurd result." State, ex rel. Wasden v. Maybee, 148 Idaho 520, 535 (2010) (*citing In re Daniel W.*, 145 Idaho 677, 680 (2008))

Further, it appears the County denied the agricultural exemption on the Target Property because infrastructure improvements had been installed in that portion of the subdivision. Because of the infrastructure improvements and platting, the County claims that the use of the Target Property is predominantly residential, even though the Target Property had never been used for residential purposes. Fortunately for this Court, Idaho Code § 63-604 is unambiguous.

While not controlling, prior decisions from the Idaho Board of Tax Appeals support Thompson Development's case. First, the presence of infrastructure improvements has no bearing on whether or not an agricultural exemption should be granted. The final decision and order of the BTA in the matter of Idaho Trust Deeds, LLC, makes it clear that lots in an improved subdivision are eligible for an agriculture

exemption. In fact, that matter is very similar to this case. In that matter, the subject property was “25 “unsold” residential lots in two (2) newer subdivisions.” (See Appendix C, also R. Vol. I, pg. 107) The County in that matter granted an agricultural exemption on 21 lots, finding that they “had a boundary line, or point in contact, in common with other same-ownership land where the total area involved was over five (5) acres.” There were four other lots, however, that were separated from the 21 lots by a publicly dedicated street. The County determined that those four lots were not exempt because they were less than five (5) acres, and they were not contiguous to the other 21 lots. The BTA, however, determined that those four lots were entitled to the agricultural exemption stating in part, “Lots in the same ownership were located directly across the street, which all taken together, totaled over five (5) acres in size. Where these “contiguous lots” were farmed in an otherwise qualifying manner, they should be granted the agricultural exemption.” Id.

While the BTA in that matter specifically focused on the contiguous argument, it also found that “platted roadways within the subdivision are developed and owned by the government” just as is the case here. Id. The subdivision improvements in that matter included the improved streets and utility lines within the roadways. In its decision, the BTA found that “The record provided the subject lots were farmed over their surface area. There was no indication that subdivision improvements prevented farming.” Id.

While the County raised the argument that the lots in Phase I of Indian Hills VI Addition were “separate – not contiguous to—Phases 2 and 3.” (R. Vol. I, pg. 129, P. 2), the record shows that is clearly not the case. With respect to the land in Phases II and III, the County contradicted itself when it acknowledged: “This land is adjacent to the lots in Phase I.” (R. Vol. I, pg. 127, P. 1)

Because Phase I is adjacent to and touching Phase II and Phase III and they combined consist of over 10 acres of common ownership, the 5-acre threshold requirement of the lead in portion of section 63-604(a) is met. Further, the existence of subdivision improvements has no bearing on whether or not the lots were farmed.

B. Production of Field Crops

Theodore C. Thompson, a principal of Thompson Development, is a 35-year farmer on the Palouse region, with detailed and intimate knowledge of customary and acceptable farming practices on the Palouse region, as well as markets in and definitions of relevant crops. (R. Vol. I, pg. 73; pg. 75, P. 20) He is therefore qualified and competent to testify that the spring wheat planted in 2009 and the hay planted in 2010 are respectively a grain and a feed crop. (R. Vol. I, pg. 75, P. 21) He is also qualified to testify that the ground preparation conducted in the fall of 2008 was within the range of usual and customary ground preparation in anticipation of crops to be planted in the spring. (R. Vol. I, pg. 74, P. 11) This activity in 2008 qualifies as “actively devoted to agriculture.” Roeder Holdings, LLC v. Bd. of Equalization of Ada County, 136 Idaho 809, 814 (2001) (holding that fall ground preparation in the year before the tax year in question

left the property “actively devoted to agriculture” even though there was no crop actually in the ground on January 1 of the tax year in question). Therefore, section 63-604(a)(1) is satisfied.

Additionally, any arguments by the County attempting to allege that the crops were not part of a “bona fide” farming operation would be without merit, irrelevant, and would border on frivolous, as *Roeder Holdings* also made it clear that such a standard was not part of the clear statutory framework, which must control the analysis. *Roeder* at 813-14. The statute simply requires the planting of a crop, including preparation under the interpretation of *Roeder Holdings*. The statute has been satisfied.

C. *Covenants Do Not Prohibit Agricultural Use*

The covenants applicable to the Target Property recognize Thompson Development’s right to continue agricultural use of the Target Property. In relevant part, they provide: “Each owner of each lot hereby acknowledges that it is adjacent to farmland and that Declarant intends to continue to farm said farmland for the foreseeable future. Each owner further agrees not to take any action that would impede the Declarant’s farming operation.” (R. Vol. I, pg. 82, Art. III, P. 3; pg. 89, Art. III, P. 2) The covenants further state that the Declarant [Thompson Development] reserved the right to farm the adjacent property: “FURTHERMORE, it is understood that the Declarant owns the adjacent farmland and may develop said land. In the meantime, however, Declarant shall continue farming the land. Lot owners agree not to impede in the development or farming of the land by the Declarant.” (R. Vol. I, pg. 87, Art. VIII, P. 4; pg. 94, Art. VIII, P. 4)

At some point in the proceedings below, the County and the trial court made reference to the language of the Covenants, and argued that Article III ¶2 of the Covenants (R. Vol. I, pg. 89) constitutes a restriction contrary to I.C. § 63-604(2). However, when reading covenants, the Idaho courts apply ordinary rules of contract construction. Best Hill Coalition v. HALKO, LLC, 144 Idaho 813, 817 (2007). In construing a contract, the Court must seek to give effect to the intention of the parties, which is to be determined by viewing the contract as a whole and in its entirety. Clear Lakes Trout Co. v. Clear Springs Foods, Inc., 141 Idaho 117, 120 (2005).

The clear meaning and intention behind the Covenants, when considered in their entirety, is to recognize and allow agricultural use of each portion of the Target Property up until transferred to an end-user for residential use, in which case, the Covenants provide restrictions regarding the type of residential structure, as required by the City of Moscow during the platting process. (R. Vol. I, pg. 75, P. 22-23) Although not binding on this Court, the BTA recognized this clear and common-sense understanding of the Covenants, at page 7 of its decision in this matter, stating “The record did not demonstrate a clear prohibition to the continued cropland use (agricultural use) of the subject lots as of January 1, 2009, or subsequent to platting.” (R. Vol. I, pg. 19, P. 4) This clear and common-sense understanding also comports with the understanding and intention of Thompson Development. (R. Vol. I, pg. 75, P. 25)

This understanding is also consistent with and mandated by the Idaho courts’ strict interpretation of restrictive covenants. Restrictive covenants are “disfavored” by the Idaho courts. Best Hill Coalition v. HALKO, LLC, 144 Idaho 813, 817 (2007); Pinehaven Planning

Bd. v. Brooks, 138 Idaho 826, 831 (2003). “The Court will not extend by implication any restriction not clearly expressed in the covenants because restrictive covenants are in derogation of the common law right to use land for all lawful purposes. *All doubts must be resolved in favor of the free use of land.*” Best Hill Coalition v. HALKO, LLC, 144 Idaho at 817 (emphasis added).

The clear and logical result is that there are no specific restrictions that run contrary to I.C. § 63-604(2) and therefore, the Target Property, as well as the rest of the Entire Property, having met the requirements set forth in I.C. § 63-604, qualifies for the agricultural exemption.

II. Agricultural Use of Subject Property is Not Prohibited under the City of Moscow Zoning Code.

A. Local Zoning Designation of Subject Property Irrelevant

The trial court based its decision in this case solely upon the zoning of the Target Property. The trial court determined that agricultural use was not a permitted use in the Moderate Density, Medium Density and Multiple Family Residential zones, and therefore the agricultural use was non-conforming. The trial court stated: “the nonconforming agricultural use of the 4.91 acres at issue here ceased for more than thirty days, and under the clearly stated language of the Moscow City Zoning Code, its use must have from that time on conformed to the regulations of the Moscow City Zoning Code as it applies to residential property.” (R. Vol. II, pg. 285, P. 2)

The trial inappropriately applied the City of Moscow’s Zoning Ordinance to this property. The zoning designations of the subject property are irrelevant because Idaho Code specifically

prohibits local zoning ordinances from preventing or closing agricultural operations. The legislature has gone to great lengths to protect agricultural operations and continues to do so under the Right to Farm Act found in I.C. § 22-4501 et seq. The legislature wanted to prevent the premature removal of lands from agricultural uses, and therefore passed legislation that would reduce the loss of those agricultural resources to the state. Idaho Code § 22-4501 specifically states: “The legislature also finds that the right to farm is a natural right and is recognized as a permitted use throughout the state of Idaho.”

To address the potential impact of local ordinances on agricultural operations, the legislature clarified its goal under I.C. § 22-4504, which states:

No city, county, taxing district or other political subdivision of this state shall adopt any ordinance or resolution that declares any agricultural operation operated in accordance with generally recognized agricultural practices to be a nuisance ***nor shall any zoning ordinance that forces the closure of any such agricultural operation be adopted.*** Zoning and nuisance ordinances shall not apply to agricultural operations that were established outside the corporate limits of a municipality and then were incorporated into the municipality by annexation. The county planning and zoning authority may adopt a nuisance waiver procedure to be recorded with the county recorder or appropriate county recording authority pursuant to residential divisions of property. *(emphasis added)*

Agricultural operation as defined in the Right to Farm Act includes the growing, raising or production of agricultural crops, including field grains, seeds, and hay (I.C. § 22-4502 (1)).

Under the Right to Farm Act, agricultural use is a permitted use throughout the State of Idaho, and any local ordinances which prohibit agricultural use or effectively prevent the continuation of agricultural operations are unenforceable. The County argued that the Right to

Farm Act is intended to protect existing farms from nuisance claims. However, to construe such purpose so narrowly is to disregard the entire language of I.C § 22-4501. Despite Thompson Development's arguments, the trial court failed to address the language: "The legislature also finds that the right to farm is a natural right and is recognized as a permitted use throughout the state of Idaho."

Further, zoning ordinances do not apply to agricultural operations that were established outside the corporate limits of a municipality and then were incorporated into the municipality by annexation. In this case, the subject property has been owned and used for agricultural operations by the Thompson family for over 58 years. (R. Vol. II, pg. 218, P. 9) The property was previously located outside the city limits, and was annexed into the city sometime between 1970 and 1981. (R. Vol. II, pg. 218, P. 11) Accordingly, the zoning ordinance does not apply to this property.

Taken as a whole, it is clear that the Right to Farm Act is intended to prevent counties and cities from prohibiting agricultural use of property. The Right to Farm Act is not the only statute which promotes the protection of agricultural activities. The Local Land Use Planning Act was also intended to encourage protection of agricultural lands for production of food. (I.C. § 67-6502 (e)). Idaho Code § 67-6529 goes even further and states that no county board of commissioners may adopt an ordinance or resolution which "deprives any owner of full and complete use of agricultural land for production of any agricultural product." That code states that 'agricultural land' shall be defined by local ordinance or resolution. The trial court interprets this to mean that since the City of Moscow Zoning Code has designated the Target Property as appropriate for residential purposes, it

inversely means that it is not agricultural land. However, allocating residential zoning districts does not define agricultural land. Phases II and III both consist of agricultural land, yet are zoned under the residential zoning districts of the City of Moscow. It is the use of the land which defines it as agricultural. In this case, the City of Moscow Zoning Code does not apply under the Right to Farm Act as this is property that was continuously farmed and then annexed into the City.

B. Absent Statutory Authority, Agricultural Use of Property Would Qualify as a Legal Nonconforming Use

Even if the legislature had not specifically stated that agricultural use was a permitted use throughout the state of Idaho under the Right to Farm Act, the local zoning ordinances do not prohibit Thompson Development from farming its property as a legal non-conforming use. Bill Belknap, the Community Development Director who also acts as the Zoning Administrator for the City of Moscow conducted a factual inquiry into the activity of the property, and determined that Thompson Development was not in violation of the City of Moscow's Zoning Code. Mr. Belknap appropriately found that the historical use had not been terminated. "Further, no new use was established that formally extinguished the prior historical agricultural use. Therefore our office finds that the agricultural use occurring within Indian Hills Sixth Addition is a legal non-conforming use of the subject property and not in violation of the City's Zoning Code." (R. Vol. II, pg. 224, P. 3)

Title 4, Section 1-8 of the Zoning Code provides for legal non-conforming uses. That code section provides that a use that was allowed prior to the adoption of a zoning ordinance which after its adoption would no longer be allowed, may continue as a legal nonconforming use. The code

further states that if the legal non-conforming use is discontinued for a period of 30 days, then the use would no longer qualify as a legal nonconforming use. The trial court noted that because there was no agricultural activity observed from the time the property was rezoned in early 2008 through the fall of 2008 when the property was prepared for spring planting, the agricultural use of the property no longer qualified under the historic use exception. The trial court further noted that it is not bound by Mr. Belknap's determination.

However, the trial court failed to take into account two essential factors in its analysis. First, a crop does not have to be harvested for the property to be continuously used for agricultural purposes. Idaho Code § 63-604 recognizes this as it allows for agricultural exemptions for properties which are in a crop retirement or rotation program. (See I.C. § 63-604 (1) (a)(iv)). It is common practice for farmers to allow farm ground to lie fallow for one or more seasons. Second, it is unreasonable to apply a 30 day time period to agricultural operations when it comes to determining whether or not a use has been discontinued for purposes of establishing a legal nonconformity. In a typical crop year, farmland is not ordinarily 'used' for periods of time exceeding 30 days; for instance, between spring harvest and fall planting. Just because there is not a crop in the ground, does not mean that the agricultural use of the property has been discontinued as is anticipated by this code. Mr. Belknap appropriately used reason and logic when he determined that the 30 day time period noted in Zoning Code Section 1-8 relating to legal nonconforming uses is not appropriately applied to agricultural uses. Mr. Belknap's interpretation and analysis of Title 4, Section 1-8 of the Zoning Code is nearly identical to this Court's analysis in *Roeder Holdings*. In *Roeder Holdings*, this Court underwent the same process when it reviewed I.C. § 63-602Y. That

code section stated that property must meet exemption requirements as of the first day of January of each year the exemption is requested. The county in that case argued that there was no crop in the ground on January 1, therefore the property was not used for producing field crops and did not qualify for the agricultural exemption under I.C. § 63-604. This Court determined that January 1 was not the appropriate date for assessment purposes when it comes to the agricultural exemption because it is not typical farming practice to have crops in the ground on January 1. Roeder Holdings, LLC v. Bd. of Equalization, 136 Idaho 809, 814 (2001) .

Both Mr. Belknap and this Court in *Roeder* used a common sense, reasonable analysis when interpreting the respective code provisions. The same applies in this case. It is not appropriate to use a 30 day time period for ‘use’ when it comes to determining if agricultural use of farmland was discontinued for purposes of establishing a legal nonconformity. In fact, applying the trial court’s and the County’s interpretation of the City’s Zoning Code in this case would lead to absurd results; all farmland in the city would be subject to losing their protected non-conforming use rights solely based upon typical farming practices.

Fortunately, the legislature has clearly stated that agricultural use is permitted throughout the state of Idaho as a natural right – therefore, the City’s Zoning Code, if interpreted to disallow agricultural uses, is not only a violation of the state code but also of the Idaho Constitution (Article XII Section 2 of the Idaho Constitution, states that an incorporated city may make and enforce regulations that are not in conflict with the general laws).

C. Deference Should be Given to the Zoning Administrator's Decision

During the proceedings below the trial court noted that it is not bound by Mr. Belknap's determination that Thompson Development's agricultural use of the subject property was not in violation of the Zoning Code. Mr. Belknap had issued a letter of determination in response to a complaint alleging Thompson Development's agricultural use of the property was a violation of the City Zoning Code. After a factual investigation, Mr. Belknap noted that Thompson Development's agricultural use of the property was not in violation of the City's Zoning Code. While the trial court was correct in that Mr. Belknap's decision was not binding on the trial court; it is well reasoned that an agency's interpretation of its own zoning regulations should be given deference: "... 'there is a strong presumption of favoring the validity of the actions of zoning boards, which includes the application and interpretation of their own zoning ordinances.'" Terrazas v. Blaine County ex. rel. Board of Commissioners, 147 Idaho at 197, 207 P.3d at 173 (2009) (quoting Payette River Prop. Owners Ass'n v. Bd. of Comm'rs of Valley County, 132 Idaho 551, 554, (1999)). This Court in Chisholm v. Twin Falls County gave deference to that County's interpretation of its own zoning ordinance articulating the exact same presumption. In that case, this Court determined that the County's interpretation was not capricious, arbitrary or discriminatory; and therefore the Court deferred to the County's interpretation. Chisholm v. Twin Falls County, 139 Idaho 131, 75 P.3d 190 (2003).

While Mr. Belknap is not a 'zoning board', he is the Zoning Administrator tasked by the City of Moscow's Zoning Code to respond to all questions regarding the interpretation of Moscow's Zoning Code. (Title 4, Sec. 11-1, Moscow Zoning Code) Also, under Title 4, Section 11-5, the

Zoning Administrator is tasked with discretion regarding authorized uses. Specifically, that Section states in part, “Further, when, as a result of subsequent changes in technology, business practice, or lifestyle, a use has not been mentioned in this Zoning code, the Zoning Administrator or designee may permit such use if it is clear that the use is comparable to listed uses for a particular zoning district.” In his letter, Mr. Belknap made a point to reference the “compatibility of the non-conforming use with adjacent land uses and the greater public purpose or good of a particular application of the Zoning Code...The community and the City have historically promoted the continuation of farming in locations in and around the City as a productive means of land stewardship.” (R. Vol. II, pg. 224, P. 2) It is clear that under the City of Moscow’s Zoning Code, the Zoning Administrator does have discretion regarding authorized uses and Mr. Belknap’s position is that the agriculture use of the Target Property is not in violation of the City Code.

Mr. Belknap further conducted his own factual investigation prior to making his determination. Like the County in *Chisholm*, Mr. Belknap’s interpretation was not capricious, arbitrary or discriminatory. As such, his decision should be given deference. In this case, the state legislature has effectively removed all questions regarding the interpretation of local ordinances on agricultural operations and therefore Mr. Belknap’s determination, while appropriately reasoned and accurate as presented, is pre-empted by state code.

III. Prohibiting agricultural use of the Target Property by application of the City of Moscow Zoning Code is a violation of Thompson Development's due process rights.

As noted above, in the event the City of Moscow's Zoning Code does apply, Thompson Development's use of the Target Property for agricultural operations is protected as a non-conforming use. The 14th Amendment of the Constitution of the United States, and Article I, Sec. 13 of the Idaho Constitution both protect an individual's right to continue a "nonconforming use". Eddins v. City of Lewiston, 244 P.3d 174, 178 (2010) (*quoting* O'Connor v. City of Moscow, 69 Idaho 37, 42-43, (1949). A nonconforming use is "a use of land which lawfully existed prior to the enactment of a zoning ordinance and which is maintained after the effective date of the ordinance even though not in compliance with use restrictions." Id. (*quoting* Baxter v. City of Preston, 115 Idaho 607, 608-09 (1989). Generally, nonconforming uses are allowed to continue after a new zoning ordinance is enacted. Id. This is intended to protect "the owner from abrupt termination of what had been a lawful condition or activity on the property. The protection does not extend beyond this purpose." Id. (*quoting* Bastian v. City of Twin Falls, 104 Idaho 307, 309 (Ct App. 1983)) In general, nonconforming uses "should not be allowed to expand and eventually should be eliminated." Ada County v. Schemm, 96 Idaho 396, 398 (1974).

Accordingly, a nonconforming use may be lost if it is enlarged or expanded in violation of a valid zoning ordinance. *Baxter*, 115 Idaho at 609. This Court in *Baxter* adopted a flexible approach that focuses on the character of the alleged enlargement or expansion on a case-by-case

basis. *Id.* In that analysis this Court focused on the particular character of the nonconforming use and whether the use was the same before or after the passage of the zoning ordinance. *Id.*

This Court in *Eddins* reiterated the intent of due process:

Due process protects the fundamental or primary use of the property prior to the enactment of a new zoning ordinance; therefore, a nonconforming use is not impermissibly enlarged or expanded until there has been some change in the fundamental or primary use of the property. *Eddins v. City of Lewiston*, 150 Idaho 30, 178 (2010)

This Court in *Eddins* found that the fundamental or primary use of Eddins' real property – both before and after the ordinance was passed – was to rent spaces for manufactured homes and recreational vehicles. In which case, the use of the real property was protected by the due process clauses of Idaho and the U.S. Constitutions. *Id.* at 179.

This Court found that including the manufacturing of crypts in the operation of a cemetery was an intensification of its use, but was not a basic change in the fundamental or primary use of the real property in question. *Lewis-Clark Memorial Gardens, Inc., v. City of Lewiston*, 99 Idaho 680, 680 (1978).

This Court also found that replacement of obsolescent equipment with modern equipment for a business did not constitute an enlargement or expansion of that use. *Gordon Paving Co. v. Blaine Cty. Bd of Cty. Comm'rs*, 98 Idaho 730, 731 (1977). This Court pointed out “[b]oth before and after the modifications [the paving company] was engaged in asphalt production by the same basic process. As a matter of law, no change of use has occurred.” *Id.* at 732.

The main issue consistent in *Lewis-Clark Memorial Gardens*, *Gordon Paving*, and *Eddins* is the focus on whether the uses constituted enlargement or expansion of the nonconforming use. In Thompson Development's case, there is no enlargement or expansion of use. In fact, there is arguably a decrease in the use because portions of the property that were previously farmed were dedicated to the City for public streets, which decreased the size of the land used for agricultural operations. It is important to note, the property subject to the tax appeal is only the property owned by Thompson Development, and does not include the streets or rights of way.

The trial court stated that Thompson Development terminated its agricultural activities on the Target Property, and that Thompson Development's termination of agricultural activities constituted a fundamental change in use. (R. Vol. II, pg. 288, P. 4). However, this is inconsistent with this Court's analysis in *Eddins* and *Baxter*.

There is no dispute that Thompson Development farmed the Target Property prior to the change in the zoning of the property in early 2008. There is no dispute that the Target Property was prepped for farming in the fall of 2008 and farmed in the subsequent years. There was no harvesting of any crop in the summer of 2008 while the public improvements were installed. However, the character of the use of the property before 2008 and in the fall of 2008 was the same with the exception that there was a little less ground for Thompson Development to farm as the platting required the dedication of public rights of way. While some utilities were stubbed out along the boundaries of the lots, they did not interfere with the farming of the Target

Property. There was no other use of the Target Property between the beginning of 2008 and the fall of 2008. This is the same analysis used by Mr. Belknap when he made his determination: the fundamental and primary use of the Target Property has not changed.

Because there was clearly no enlargement, expansion, or change in the fundamental or primary use of the Target Property, Thompson Development's nonconforming use is protected by the due process clauses of the Idaho Constitution and the U.S. Constitution. Based upon Thompson Development's right to continue farming the property, and meeting all of the requirements set forth in I.C. § 63-604, Thompson Development is entitled to receive the agricultural exemption.

IV. The trial court erred as a matter of law in denying Thompson Development an agricultural exemption on the Target Property.

Based upon the foregoing, the trial Court erred as a matter of law in denying Thompson Development an agricultural exemption on the Target Property.

CONCLUSION

Thompson Development was entitled to receive the agricultural exemption for the Target Property, having qualified for the exemption under I.C. § 63-604 for the tax years 2009 and 2010. Thompson Development paid \$59,476.48 in additional taxes due to the erroneous denial of the agricultural exemption. (R. Vol. I, pg. 75, P. 19) The tax was improperly or illegally assessed and collected. This Court should enter an order directing a refund to Thompson Development in the amount of \$59,476.48. (I.C. § 63-3812(c)). This Court should enter a judgment and order for

a refund – this is not discretionary but rather is mandatory once an improper assessment and overpayment is found. Canyon County Bd. of Equalization v. Amalgamated Sugar Co., LLC, 143 Idaho 58, 62 (2006). Thompson Development is also entitled to pre-judgment interest on the overpayments, from the date of payment. Id. at 62-63; I.C. § 63-1305(2).

DATED: January 10, 2012.

Respectfully submitted,

SUSAN R. WILSON
ATTORNEY AT LAW, PLLC

A handwritten signature in cursive script that reads "Susan R. Wilson". The signature is written in black ink and is positioned above a horizontal line.

Susan R. Wilson
Attorney for Petitioner-Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of January, 2012, I caused a true and correct copy of the foregoing APPELLANT'S OPENING BRIEF to be served as indicated upon the following in the manner set forth below.

ADRIENNE K. WILLEMS
Deputy Prosecuting Attorney
Latah County Prosecutor
P.O. Box 8068
Moscow, ID 83843

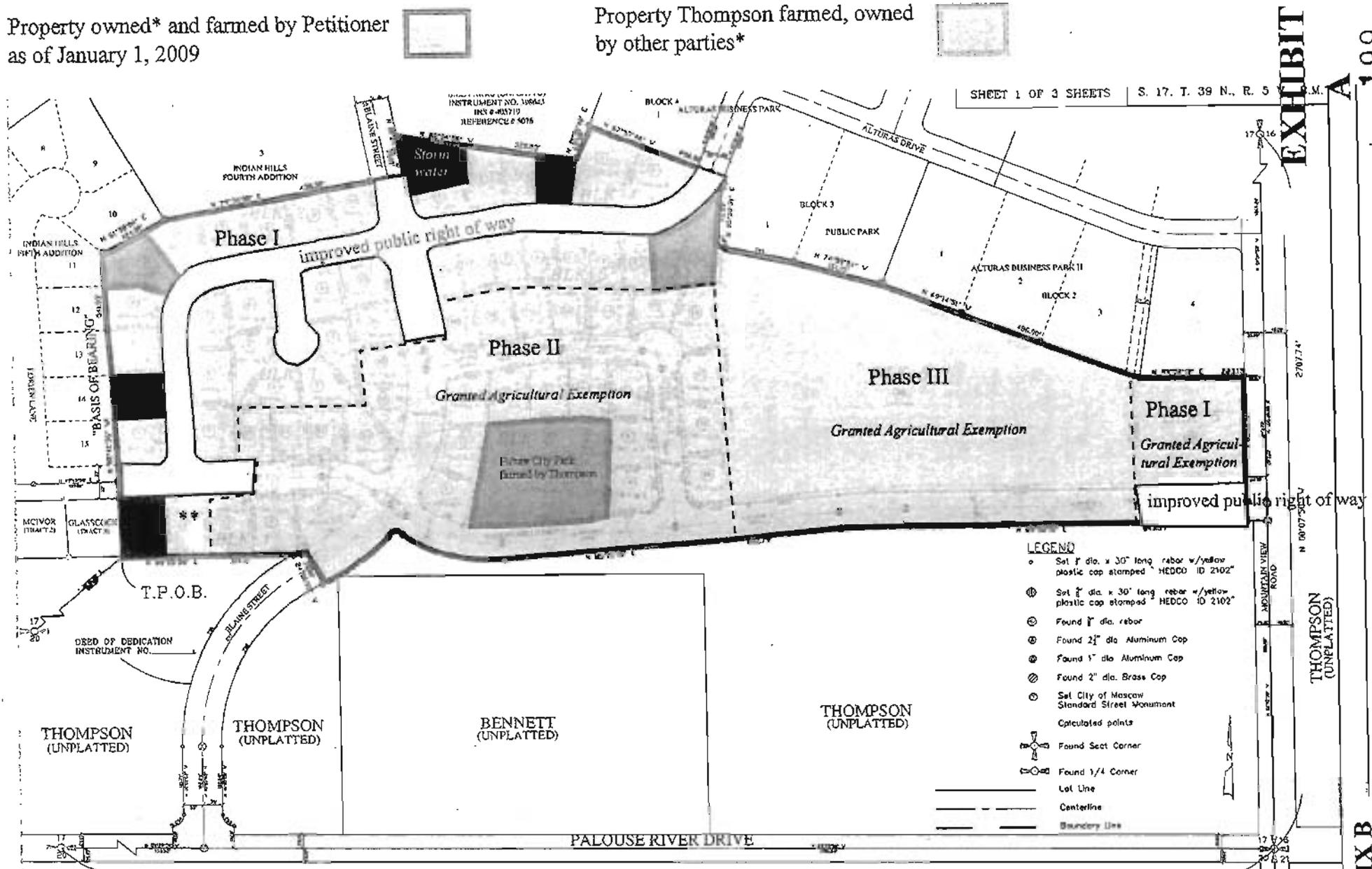
U.S. Mail
 Overnight Mail
 Fax: 208.334.4060
 Hand Delivery

SUSAN R. WILSON,
ATTORNEY AT LAW, PLLC

By: 
Susan R. Wilson, *Attorney for Appellant*

Property owned* and farmed by Petitioner
as of January 1, 2009

Property Thompson farmed, owned
by other parties*



SHEET 1 OF 3 SHEETS | S. 17. T. 39 N., R. 5 W. M.

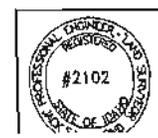
EXHIBIT

A 199

- LEGEND**
- Set 1" dia. x 30" long rebar w/yellow plastic cap stamped "HEDCO ID 2102"
 - ⊕ Set 2" dia. x 30" long rebar w/yellow plastic cap stamped "HEDCO ID 2102"
 - ⊙ Found 1" dia. rebar
 - ⊙ Found 2 1/2" dia Aluminum Cap
 - ⊙ Found 1" dia Aluminum Cap
 - ⊙ Found 2" dia. Brass Cap
 - ⊙ Set City of Moscow Standard Street Monument
 - Capiulated points
 - ⊕ Found Sect Corner
 - ⊙ Found 1/4 Corner
 - Lot Line
 - - - Centerline
 - Boundary Line

* all right of ways have been dedicated to the City of Moscow, the unimproved right of ways are farmed by Thompson

** Lot sold January 21, 2009



INDIAN HILLS 6TH ADDITION
FINAL PLAT
THOMPSON DEVELOPMENT, LLC.
MOSCOW, ID

SCALE	1" = 300'
DRAWN BY	BJW
CHECKED BY	JSU
DATE	6-1-08
SHEET	1 OF 3



BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF IDAHO) APPEAL NOS. 08-A-2787
TRUST DEEDS, LLC from the decisions of the) thru 08-A-2810
Board of Equalization of Twin Falls County for tax)
year 2008.) FINAL DECISION
) AND ORDER

AGRICULTURAL EXEMPTION APPEALS

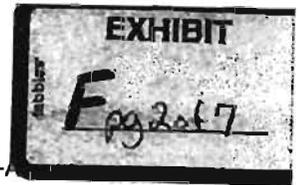
THESE MATTERS came on for consolidated hearing November 7, 2008 in Twin Falls, Idaho before Hearing Officer Steven Wallace. The full Board participated in this decision. Attorney Gary Slette and Managing Member Rick Giesler appeared for Idaho Trust Deeds, LLC. Assessor Gerry Bowden, County Prosecutor Matt Pember and Appraiser Supervisor John Knapple appeared for Respondent Twin Falls County. These appeals are taken from decisions of the Twin Falls County Board of Equalization (BOE) denying the protests of valuation for taxing purposes of properties described by parcel no. on Attachment A.

The issue on appeal is whether farmed ground qualifies as exempt pursuant to Section 63-604, I.C., or what is the proper taxable value of exempt "land actively devoted to agriculture" pursuant to Section 63-602K.

The decisions of the Twin Falls County Board of Equalization are modified in part and reversed in part.

FINDINGS OF FACT

The subject property is 25 "unsold" residential lots in two (2) newer subdivisions, Belmont Stakes and Emerald Heights. All the subject lots, plus some adjoining non subdivision land, are tenant farmed. According to the record, the subdivisions' CC&R's do not restrict the present agricultural use. Platted roadways within the subdivisions are developed and owned by the government. The subject lots are generally at, or a little over, one (1) acre in size.



The County found 21 lots had a boundary line, or point contact, in common with other same-ownership land where the total area involved was over five (5) acres. These 21 lots were exempted pursuant to Section 63-604, I.C.. On these exempt lots Appellant objects to the taxable value determination, claiming an over-assessment.

On the other four (4) subject lots, the County held they were not exempt where the contiguous land area was determined to be under five (5) acres. On these non exempted lots Appellant seeks the agricultural exemption and a fair determination of taxable value. Taxpayer contends the exception in Section 63-604(7)(a) applies to these lots. Consequently the four (4) lots should be considered for assessment purposes to be "contiguous" with other same-ownership land, which all taken together has a total contiguous land area that exceeds the 5-acre threshold.

Taxpayer contends the subject subdivision land should be valued the same as any other qualifying cropland, i.e. pursuant to the actual-use-value model provided for in the agricultural exemption law. The installation of subdivision improvements and the subsequent impact on individual lot values is contended to be a non factor in the determination of taxable value under the agricultural exemption. The subdivision improvements considered by the Assessor included improved streets and utility lines within those roadways.

The Assessor calculated an agricultural land value of \$1,333 per acre. This was the figure based solely on the statutory and rule formula. The legal formula is complex. It is summarized here as a "use-value", based on a specially modified income approach, where income is tied to a soil type's agricultural production. Land immediately outside the subdivision, that was farmed in conjunction with the subdivision ground, had a total assessed value of \$1,333 per acre. But where the 21 lots were serviced by subdivision improvements, the calculation of taxable value



differed substantially – going as high as \$54,000 to \$66,000 each for the roughly 1-acre lots. Respondent reported it had granted an agricultural exemption to the 21 lots. Without the agricultural exemption, market value estimates for the 21 lots ranged from about \$64,000 to \$76,000 each.

In assessing the 21 lots, the Assessor adapted a method of valuation used for non exempt subdivision ground. The subdivision market valuation model allocated a percentage of total value to various components. For instance, the land cost in a rural subdivision was typically found to represent 17% of the total subdivision development costs, utilities were 18%, and so on. To grant the agricultural exemption, i.e. remove the “speculative value”, the County removed 17% from its full market value estimates for each lot; then replaced the 17% reduction with the special use valuation. This produced a taxable value that reflected both the agricultural use plus value attributable to the presence of subdivision improvements.

Respondent’s explanation for this special treatment of agricultural land in subdivisions implied the improvements were actually located on the lots and owned by the lot owner(s). From the record however, this did not appear to be the case. Regardless, the tenant farming evidently continued right up to, or across, the lot boundary lines.

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 here exempt status and taxable value. 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.

Property is presumed taxable unless expressly exempted. Idaho Code Sections 63-203,



63-602. Several rules apply in determining whether property is entitled to an exemption. Statutes granting tax exemptions are strictly construed against the taxpayer and in favor of the State. Tax exemptions are narrowly construed, following the "strict but reasonable" rule of statutory construction. *Ada County Bd. of Equalization v. Highlands, Inc.*, 141 Idaho 202 at 206; 108 P.3d 349 at 353 (2005).

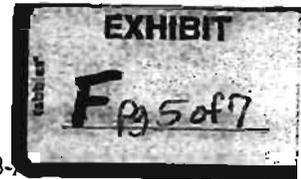
Subdivision roadways were in public ownership for both platted subdivisions germane to this matter (Belmont Stakes and Emerald Heights). Where a roadway separated privately owned lots from one another, the County found the separated lots were not "contiguous" as the private ownerships did not meet at the center of the street. Thus the County found four (4) lots did not qualify for the agricultural exemption due to size standards. We hold the County reading of Section 63-602K(7)(a) was in error. The section provides:

(7) As used in this section:

(a) "Contiguous" means being in actual contact or touching along a boundary or at a point, except no area of land shall be considered not contiguous solely by reason of a roadway or other right-of-way.

The roadway exception would be superfluous language or a meaningless clause as interpreted by the County. If same-owner parcels went to the centerline of a street or right of way from opposite sides, then those ownerships would "touch" under the first phrase meaning. The County believed the second phrase applied only under the same circumstances as the first, i.e. where a "touch" occurred. The "exception" phrase must be interpreted to alter or qualify the first part under the expressed circumstances. It is an exception, i.e. it applies where common ownerships do not touch solely by reason of a roadway or other right-of-way.

The four (4) non exempted lots were contiguous with one another through common boundaries and ownerships. Lots in the same ownership were located directly across the street.



which all taken together, totaled over five (5) acres in size. Where these "contiguous lots" were farmed in an otherwise qualifying manner, they should be granted the agricultural exemption. Therefore the BOE decision to not exempt four (4) of the subject lots will be reversed.

The other issue on appeal dealt with the proper calculation of taxable value under the agricultural exemption. As noted earlier, the County started with an estimate of the full market value for each lot, then made a 17% deduction, then added back an agricultural land value. We hold the agricultural land value should have been calculated pursuant to the statutory scheme and that this figure alone represented the taxable value of subject lots. See Section 63-602K, I.C. and Property Tax Administrative Rules 613, 614 and 645 in IDAPA 35.01.03.

The taxable value of land actively devoted to agriculture is closely controlled. The mechanics of determining taxable value on this partial exemption are complex. It is clear however that the "actual use value" or taxable value is not determined by reference to market value, but by statute and rule procedure/formula. The speculative portion value results from comparing the statutory formula value, i.e. the taxable value, with the property's full market value. The pertinent exemption law does not provide for or allow a taxable value calculation as processed by the County. The record provided the subject lots were farmed over their surface area. There was no indication that subdivision improvements prevented farming.

For the reasons set forth above, the decisions of the Twin Falls County Board of Equalization concerning subject lots will be reversed in part and modified in part.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Twin Falls County Board of Equalization concerning the subject parcels be, and the same hereby are, REVERSED in part to grant exemptions and set taxable values on four (4) lots, and



MODIFIED in part to reduce taxable values on the remaining 21 lots. See Attachment A for specific taxable values ordered by the Board.

IT IS FURTHER ORDERED that 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.

DATED February 27, 2009

Attachment A
Before the Board of Tax Appeals
Idaho Trust Deeds, LLC Appeals - Twin Falls County

Appeal No. 1. 08-21. 08-A-2806

- 1. 08-A-2786
- 2. 08-A-2787
- 3. 08-A-2788
- 4. 08-A-2789
- 5. 08-A-2790
- 6. 08-A-2791
- 7. 08-A-2792
- 8. 08-A-2793
- 9. 08-A-2794
- 10. 08-A-2795
- 11. 08-A-2796
- 12. 08-A-2797
- 13. 08-A-2798
- 14. 08-A-2799
- 15. 08-A-2800
- 16. 08-A-2801
- 17. 08-A-2802
- 18. 08-A-2803
- 19. 08-A-2804
- 20. 08-A-2805
- 22. 08-A-2807
- 23. 08-A-2808
- 24. 08-A-2809
- 25. 08-A-2810



Parcel No. value set at \$1,333

<u>B</u> RPOF3090000070A	modified, value set at \$1,335
<u>T</u> RPOF1530000220A	modified, value set at \$1,349
<u>A</u> RPOF1530000240A	modified, value set at \$3,779
<u>O</u> RPOF1530000210A	modified, value set at \$1,349
<u>r</u> RPOF1530000200A	modified, value set at \$1,375
<u>d</u> RPOF1530000190A	modified, value set at \$1,338
<u>e</u> RPOF1530000180A	modified, value set at \$1,380
<u>r</u> RPOF1530000170A	reversal, value set at \$1,346
<u>L</u> RPOF1530000160A	reversal, value set at \$1,343
<u>V</u> RPOF1530000150A	reversal, value set at \$1,340
<u>a</u> RPOF1530000140A	reversal, value set at \$1,338
<u>I</u> RPOF1530000120A	modified, value set at \$1,879
<u>u</u> RPOF1530000110A	modified, value set at \$1,338
<u>e</u> RPOF1530000090A	modified, value set at \$1,828
RPO16210030090A RPOF1530000080A	modified, value set at \$1,610
<i>withdrawn/dis</i> RPOF1530000070A	modified, value set at \$1,607
<i>missed</i> RPOF1530000060A	modified, value set at \$1,335
RPOF3090000010A RPOF1530000050A	modified, value set at \$1,335
modified, RPOF1530000040A	modified, value set at \$1,333
value set at	
\$1,354	
RPOF3090000020A	
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value set at \$1,335	
RPOF3090000030A	
modified,	
value set at	
\$1,335	
RPOF3090000050A	
modified,	
value set at	
\$1,354	
RPOF3090000060A	
modified,	



