

BEFORE THE MONTANA TAX APPEAL BOARD

**FILED**

MAR 10 2017

Montana Tax Appeal Board

Shannon Wadsworth,

*Appellant;*

v.

State of Montana,  
Department of Revenue,

*Respondent.*

CASE No: PT-2016-35-39

**Findings of Fact,  
Conclusions of Law, Order,  
and Opportunity for Judicial  
Review**

Before the Board is Appellant Shannon Wadsworth's appeal from the Cascade County Tax Appeal Board's decision upholding Respondent State of Montana, Department of Revenue's (DOR) appraisal of five properties in Great Falls.

1. Parcel 1, 413 52<sup>nd</sup> Street South Geocode: 3016-10-3-08-27-0000. MDOR's value of the land is \$31,110.00 and the building value is \$111,890.00. Mr. Wadsworth agrees with the land value but wants a value of \$39,660.00 assigned to the building.
2. Parcel 2, 304 Riverview Dr. W. Geocode: 3138-35-3-21-16-0000. The MDOR value of the land is \$45,000.00 while the improvements are valued at \$73,600.00. The Taxpayer is requesting a land value of \$43,700.00 and a building value of \$35,441.00.
3. Parcel 3, 1621 19<sup>th</sup> Ave. South. Geocode: 3016-18-3-38-10-0000. The DOR valued the improvements at \$64,600.00. Mr. Wadsworth agrees with the land value but requests a value of \$9,239.00 for the building.

# BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

4. Parcel 4, 1619 19<sup>th</sup> Ave. South on Lots 21 & 22, Geocode: 3016-78-3-38-08-0000. These two lots are valued by MDOR at \$29,500.00 and the taxpayer is requesting a land value of \$15,000.00.
5. Parcel 5, 116 Riverview 'C' Geocode: 3138-35-3-11-32-0000 is valued by MDOR at \$40,870.00 for the land and \$114,530.00 for the buildings. Mr. Wadsworth agrees with the land value but is requesting that the buildings be valued at \$65,947.00.

## ISSUES

1. Whether DOR properly appraised Wadsworth's five properties for 2015 and 2016. Whether Wadsworth allowed the DOR to inspect the interior of his properties, whether the DOR used an acceptable method of determining the economic life remaining of the improvements on his properties, and whether DOR is required by the Montana Constitution to equalize Cascade County property values with similarly situated statewide property values by using similar comparable sales from across the state.

## FINDINGS OF FACT

2. Taxpayer received his assessment notice for the 2015-16 appraisal cycle and timely submitted AB-26 requests for informal review of his property valuation to the DOR. DOR was not allowed to inspect the properties so no adjustments were made by DOR which issued its determination letters to the taxpayer denying any reduction in value.

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

3. Taxpayer timely filed an appeal of the AB-26 determination to the Cascade County Tax Appeal Board (CTAB), which held a hearing in Great Falls on April 14, 2016. The Cascade County CTAB heard the appeals and upheld the DOR values assigned to all five properties.
4. Taxpayer appealed the findings of the CTAB to this Board within the 30 days allowed. The record includes the complete CTAB file and a transcript of the CTAB hearing.
5. Exhibits and witness lists were provided to the Board in advance of the hearing and exchanged between parties prior to the hearing.
6. This Board heard the five appeals at a hearing in Helena on September 22, 2016 where both the Taxpayer and the DOR offered testimony and exhibits in support of the values they seek.
7. The following exhibits were introduced and admitted:
  - a. Wadsworth exhibits;
    - i. 1 – Property Tax Appeal form for 304 Riverview Dr. W. City of Great Falls Building Permit for 304 Riverview issued March 21, 1960. A Cashier’s check #500512680 dated October 4, 2012 remitted by Shannon Wadsworth to Mountain Title Company in the amount of \$57,324.85. A Buy-Sell Agreement for 304 Riverview indicating a sale from Marilyn Muller to Shannon Wadsworth dated September 27, 2012 for a price of \$58,000. An October 4, 2012 deed of conveyance signed by Marilyn Muller

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

as Personal Representative of the Estate of E. Raymond Ozmon, deceased conveying the property at 304 Riverview to Shannon Wadsworth. A DOR AB-26 Request for Informal Assessment Review file-stamped received by DOR on June 3, 2013 for the subject indicating a 2013 internal inspection and adjustments causing a reduction in value to \$80,679,

- ii. 2 – Property Tax Appeal Form for subject 116 Riverview C, Buy-Sell Agreement by buyer John H. Schug, Jr. and seller Sylvia A. Schug for purchase price of \$98,000 with a closing date of April 1, 2004, Buy-Sell Agreement dated February 28, 2004 by buyers John H. Schug and Sylvia A. Schug buying subject 116 Riverview C from seller John Kranick for \$98,000 on February 28, 2004, and City of Great Falls building permit for subject property dated March 30, 1959,
- iii. 3 – Property Tax Appeal form for 413 52<sup>nd</sup> Street South, City of Great Falls Building Permit for subject dated September 27, 1961, Deed of Conveyance dated the 24<sup>th</sup> of November 2014 by Larry D. Thompson as Personal Representative of the Estate of Marvin H. Thompson selling the subject to Shannon Wadsworth, Schedule A from a title insurance policy on the subject property insuring it for a value of \$75,000, First Interstate Bank Check #400823 dated November 11, 2014 to Shannon Wadsworth for \$74,000,

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

- iv. 4 – Residential Dwelling Depreciation Table and accompanying document titled Developing Support for The Estimates of Economic Life and Effective Age,
- v. 5 – Property Tax Appeal Form for 1619 19<sup>th</sup> Ave. S and 1621 19<sup>th</sup> Ave. S including four lots, City of Great Falls Demolition Application for 1621 19<sup>th</sup> Ave S signed and dated by all required parties but not signed by applicant/property owner Wadsworth,
- vi. 6 - Two exterior and two interior photographs of subject residence at 1621 19<sup>th</sup> Ave S.

b. DOR exhibits;

- i. A – Property Tax Appeal Form for 413 52<sup>nd</sup> Street S noting CTAB disapproval of appeal and noting that CTAB finding that DOR was not allowed access to the property,
- ii. B – DOR Property Record Card for 413 52<sup>nd</sup> Street S,
- iii. C – DOR Comparable Sales Report showing five comparable sales from market area 0201 used to establish market value of subject,
- iv. D – DOR Land Valuation Model for Great Falls neighborhood 2,

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

- v. E – DOR Property Tax Appeal Form for 1621 19<sup>th</sup> Ave. S including CTAB decision to disapprove appeal and noting that DOR was not allowed access to the property,
- vi. F– DOR Property Record Card for 1621 19<sup>th</sup> Ave. S,
- vii. G – DOR Comparable sales report for subject including data on the five comparables used to validate subject property value,
- viii. H – DOR Land Valuation Model for Great Falls neighborhood 4-A,
- ix. I – DOR Property Tax Appeal Form for 1619 19<sup>th</sup> Ave. S including CTAB decision to disapprove appeal,
- x. J –DOR Property Record Card for 1619 19<sup>th</sup> Ave. S,
- xi. K – DOR Land Valuation Model for Great Falls neighborhood 4-A,
- xii. L – DOR Property Tax Appeal Form for 304 Riverview Dr. W including CTAB decision to disapprove appeal,
- xiii. M – DOR Property Record Card for 304 Riverview Dr. W,
- xiv. N – DOR Comparable sales report for 304 Riverview Dr. W including data on the five comparables used to validate subject property value,

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

- xv. O – DOR Land Valuation Model for Great Falls neighborhood 5,
  - xvi. P – DOR Property Tax Appeal Form for 116 Riverview C including CTAB decision to disapprove appeal,
  - xvii. Q – DOR Property Record Card for 116 Riverview Dr. C,
  - xviii. R – DOR Comparable sales report for 116 Riverview Dr. C including data on the five comparables used to validate subject property value,
  - xix. S – DOR Land Valuation Model for Great Falls neighborhood 5.
8. Taxpayer testified by DOR not comparing similar sales across Montana to his property that his market value was unequal, incorrect and unsupported by best appraisal practice. Taxpayer testified statewide equalization within the 1972 Montana Constitution meant that DOR must use comparable sales from across the state when setting values of Montana property.
9. Taxpayer testified his property should be fully depreciated to zero and be valued at its actual age rather than DOR setting a remaining useful economic life of 30 years as is their practice in the appraisals of residential properties.
10. Taxpayer argued his properties should be valued at the price he had paid for them.

*Findings of Fact, Conclusions of Law, Order, and Opportunity for Judicial Review*

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

11. Taxpayer testified in response to questions from the Board and the DOR the sales prices he paid for the subject land and improvements were estate, divorce, or other sales not considered to be valid willing-seller sales in the best practices of real estate appraisal.
12. DOR countered on the equalization argument that were it to use statewide comparables from exclusive Yellowstone Club or Whitefish lake neighborhoods that Taxpayer's property would be assigned a significantly higher market value. Alternately, it would not be fair to use comparable sales from Sunburst or other economically disadvantaged communities to set the market value for Taxpayer's properties in suburban Great Falls neighborhoods close to many desirable amenities. DOR experts testified the most defensible comparable sales to consider in finding market value of the subject properties must be those in or nearby to the neighborhood where the subject properties are located.
13. DOR submitted evidence of both land and improvement values determined by the DOR based upon actual arm's length or willing buyer, willing seller sales in the same neighborhood.
14. Taxpayer testified he had performed maintenance and upkeep on the subject properties, such as painting, replacing or repairing flooring, and minor remodeling.
15. Taxpayer testified his business is to rent properties for a profit and that he purchases properties for rental income and property appreciation as an investment.



## CONCLUSIONS OF LAW

16. The Board has jurisdiction over this case and its order is final and binding upon all parties unless changed by judicial review. Mont. Code Ann. § 15-2-301.

### **Burden of Proof**

17. The taxpayer bears the burden of proving the error of DOR's decision. *Farmers Union Cent. Exch., Inc. v. Dep't of Revenue of State of Mont.*, 272 Mont. 471, 476, 901 P.2d 561, 564 (1995); *Western Air Lines, Inc. v. Michunovich*, 149 Mont. 347, 353, 428 P.2d 3, 7 (1967).
18. However, DOR cannot rely entirely on the presumption in its favor and must present a modicum of evidence showing the propriety of their action. *Western Air Lines*, 149 Mont. at 353, 428 P.2d at 7.
19. "All taxable property must be appraised at 100% of its market value..." Mont. Code Ann. § 15-8-111.
20. "[F]or the taxable years from.... (c) January 1, 2015, through December 31, 2016, all property classified in 15-6-134, MCA, (class four) must be appraised at its market value as of January 1, 2014." Mont. Admin. R. 48.18.124.

### **Statewide Equalization**

21. The Board finds that the purpose of Statewide Equalization passed with the adoption of the 1972 Montana Constitution was to compare similar

BEFORE THE MONTANA TAX APPEAL BOARD.

*William and Judy Fink v. DOR*

neighborhoods not to compare all properties statewide regardless of location or other influencing factors. We believe the Taxpayer misunderstands the meaning of equalization and we decline to adopt his reasoning.

22. Taken to the Taxpayer's logical conclusion, many older Montana improvements still being utilized would have no remaining years of useful life and therefore have no value. Appraisal theory is clear that regular maintenance of properties maintains a useful life for purposes of valuation. We do not find any indication that the calculations used by the DOR to determine useful life are flawed and the Taxpayer provided no evidence that DOR was singling him out or misapplying the theory in their methodology so we do not find the Taxpayer has overcome his burden to disprove the DOR's method or value.

**Effective Age**

23. The maintenance and upkeep of the subject actions are the basis for useful life depreciation that DOR has used to set the remaining useful life of his properties at 30 years of remaining useful life.
24. We can only conclude that Taxpayer must maintain and update properties in order to receive the rents his business requires to be viable. In the alternative he would be left with properties like the fifth subject under appeal which is not habitable, has no value and should be demolished.

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

**Access for Inspection on Appeal**

25. Section 15-7-139 (7) of Montana Law states: “A county tax appeal board and the state tax appeal board may not adjust the estimated value of the real or personal property determined under subsection (6) unless the landowner or the landowner’s agent: (a) gives permission to the department to enter the land to appraise or audit the property; or (b) provides to the department and files with the county tax appeal board or the state tax appeal board an appraisal of the property conducted by an appraiser who is certified by the Montana board of real estate appraisers.: Mont. Code Ann. 15-7-139.
26. Section 15-7-139 (6) provides: “If a landowner or the landowner’s agent prevents a person qualified under subsection (1) from entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land pursuant to subsection (5), the department shall estimate the value of the real and personal property located on the land.”
27. We find that while the Taxpayer initially scheduled an appointment with DOR for internal inspection of his properties, but when the appraiser arrived to conduct the inspections the Taxpayer drove away thereby withdrawing permission to inspect and voiding internal inspection of his properties.
28. The exception to this finding is the non-habitable property at 1621 19<sup>th</sup> Avenue S. We find the taxpayer’s testimony credible that it has little or no value. The Board finds that it is reasonable to conclude that the structure is uninhabitable without an internal inspection.

*Findings of Fact, Conclusions of Law, Order, and Opportunity for Judicial Review*

BEFORE THE MONTANA TAX APPEAL BOARD

*William and Judy Fink v. DOR*

29. Taxpayer provided no comparable sales of land to refute the land values assigned to his property. Since taxpayer provided no credible evidence that the land value of this property was lower than the DOR's valuation, he has not overcome his burden to convince the Board of a more accurate land value and we uphold the land value set by the department.

**ORDER**

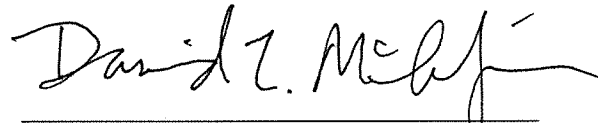
30. Shannon Wadsworth's appeals and complaint are **denied in part and granted in part.**
31. Mont. Code Ann. 15-7-139 prohibits this Board from adjusting the value of improvements for any property where taxpayer denies DOR access for an internal inspection.
32. DOR is ordered to maintain land values of all five properties as originally appraised by DOR for 2015 and 2016.
33. DOR is ordered to reduce the value of the improvement at 1621 19<sup>th</sup> Ave. S to \$10,000, as credible evidence was provided no internal inspection was required to indicate the improvements are not habitable and have minimal value as a residence.

BEFORE THE MONTANA TAX APPEAL BOARD

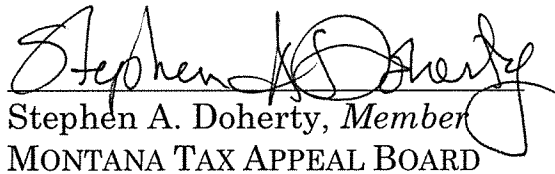
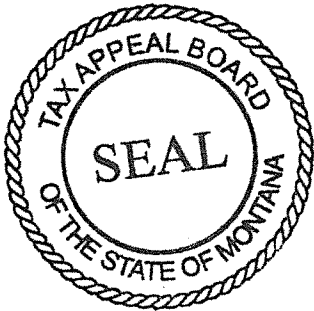
*William and Judy Fink v. DOR*

**Notice:** You may be entitled to judicial review of this Order by filing a petition in district court within 60 days of the service of this Order. Mont. Code Ann. § 15-2-303(2).

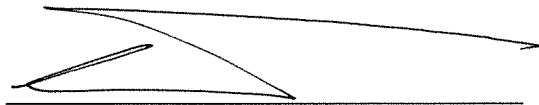
Ordered March 10, 2017.



David L. McAlpin, *Chairman*  
MONTANA TAX APPEAL BOARD



Stephen A. Doherty, *Member*  
MONTANA TAX APPEAL BOARD



Valerie A. Balukas, *Member*  
MONTANA TAX APPEAL BOARD

## **Certificate of Service**

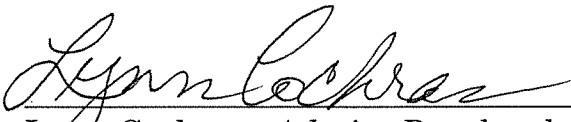
I certify that I caused a true and correct copy of the foregoing *Findings of Fact, Conclusions of Law, Order, And Opportunity for Judicial Review* to be sent by United States Mail via Print and Mail Services Bureau of the State of Montana on March 10, 2017 to:

**Shannon Wadsworth**  
3303 Upper River Road  
Great Falls, MT 59405

**Michele Crepeau**  
Department of Revenue, Legal Services Office  
P.O. Box 7701  
Helena, MT 59604-7701

**Cascade County Tax Appeal Board**  
P.O. Box 2867  
Great Falls, MT 59403

**Property Assessment Division**  
Department of Revenue  
P.O. Box 8018  
Helena, MT 59604-8018

  
Lynn Cochran, Admin. Paralegal  
MONTANA TAX APPEAL BOARD