

BEFORE THE MONTANA TAX APPEAL BOARD

FILED

MAR 06 2020

Montana Tax Appeal Board

ROBERT & PATRICIA THUL,
Appellant,

v.

STATE OF MONTANA,
DEPARTMENT OF REVENUE,
Respondent.

CASE No: PT-2019-21

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, ORDER AND
OPPORTUNITY FOR JUDICIAL
REVIEW**

STATEMENT OF THE CASE

This is an appeal by Robert and Patricia Thul who contested the appraised value of their property. The property was appraised by the Department of Revenue at a value of \$111,400, and the Thuls believe the correct value is \$76,100.

PROPERTY DESCRIPTION

The subject property in this appeal is identified by Geocode 02-2895-26-1-03-38-0000 and is located at 108 3rd Ave S. in Belt. *Dept. Ex. B.* The Legal Description is Belt Original Townsite, S26, T19 N, R06 E, Block 013, LTS 4A &5-6. *Id.*

The improvements to the property consist of a conventional, three-bedroom, one and a half bath home, which totals 1,346 square feet of measured living space. *Id.* The residence was originally built in 1889. *Id.* The other improvements consist of a 20 square foot concrete slab, and a detached garage built in 1950. *Id.*

The entire lot measures a total of 10,346 square feet. *Id.*

EXHIBIT LIST

The Board admitted the following exhibits submitted by the Thuls:

1. Document compiled by the Thuls consisting of fifteen bullet points pertaining to the presentation at the MTAB hearing;
2. Photos of the subject property, seven of the interior and five of the exterior and surrounding area, undated.

The Board admitted the following exhibits submitted by the Department:

- A. *Cascade County Tax Appeal Board Minutes and Decision*, dated October 10, 2019;
- B. *Department of Revenue Property Record Card* for the subject property, including an exterior photo and measured floor plan, run date October 9, 2019;
- C. *Department of Revenue Comparable Sales Report* listing various data categories for five comparable sales (with photos) and the subject property, printed on October 9, 2019;
- D. Department of Revenue Photos (interior and exterior) of the subject property, taken on July 13, 2017 and July 1, 2019;
- E. *Montana Tax Appeal Board form 401, Appeal to the Cascade County Tax Appeal Board*, filed by the Thuls on July 8, 2019;
- F. *Department of Revenue Plat Map* with satellite and flood plain overlay;
- G. *Department of Revenue Computer Assisted Land Pricing Model, 2018 Land Valuation*.

FINDINGS OF FACT

1. The Department is required to value all properties in 2019-2020 based on their fair market value on a common statewide property lien date of January 1, 2018. *MCA §15-8-111(2)(a)*.
2. Mr. Thul testified at the Board hearing that he purchased the property for \$75,000 in 2012 from his sister-in-law, and that this was his wife's childhood home. *MTAB Hrg.*

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13:28, 28:34 and 1:39:21. Mr. Thul believes that the current appraised value—\$111,400—is therefore too high. *Id.* Mr. Thul argued the best indication of market value of the home was the price he paid in 2012. *Id.* at 32:12-19. Mr. Thul offered testimony during the hearing stating the housing market in Belt has stagnated in the last decade. *MTAB Hrg.* 1:40:48. The department did not refute Mr. Thul’s claimed purchase price, but nor did Mr. Thul present any documentation in support of his requested value. *MTAB Hrg.*

3. Mr. Thul submitted a form AB-26 informal review request to the Department, and a review was conducted by Department Appraiser Emilie Neuwerth on July 1, 2019. *Id.* at 45:12. The Department requested entry to inspect the interior of the Thuls’ house, but they were denied entry. *Id.* at 50:53. The informal review resulted in no change in value to the property. *MTAB Hrg.*

4. Mr. Thul appealed his valuation to the Cascade County Tax Appeal Board on July 8, 2019. *Dept. Ex. E.*

5. The County Board hearing was held on October 10, 2019 in Great Falls. *Dept. Ex. A.* The County Board heard the arguments from both parties, and denied the Thuls’ appeal, to uphold the Department’s appraised value. *Id.* The County Board indicated by a 3-0 vote that the Thuls did not convince them the Department’s value was incorrect. *Id.* The Thuls subsequently filed an appeal with the State Board. *MTAB File 1.*

6. The Department of Revenue’s chief witness at hearing, Department Appraiser Emilie Neuwerth, testified as to her foundational qualifications which went unquestioned by Mr. Thul. *MTAB Hrg.* 37:13-39:53.

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7. At the MTAB hearing, Ms. Neuwerth further testified that because Mr. Thul purchased the property from his sister-in-law, that the purchase would not be considered an arms-length transaction under the law. *Id at 1:3:20-31.*

8. Ms. Neuwerth further testified as to the methodology by which the appraisal of Mr. Thul's property was accomplished, namely, the fusion of sales price data, with adjustments, of the Comparable Sales Report used to find the market sales-based value. *Id at 53:20-58:05.* The Department validated their appraisal with both a cost method appraisal yielding a value of \$117,060, and a market sales analysis yielding \$111,400. *Id at 52:08-53.* The two values were within 5% of each other, which strongly supports the accuracy of the appraised value of \$111,400, that the Department placed on the property. The Department opted to apply the lower value market approach as the most reliable due to a reasonable number of sales closely comparable to the subject. *Id at 1:14:59-1:16:9.* Mr. Thul referred to these models, and their underlying methodology, as "put garbage in, garbage out kind of a thing." *Id at 1:33:15.*

9. The land value of the property was evaluated by comparison to other verified land sales in the area. *Dept. Ex. G.* Ms. Neuwerth testified to the Department's Exhibit G, the *Computer Assisted Land Pricing Model (CALP)*, which indicated a land value for the subject lot of \$25,400 based on eight land sales in the Belt area. *Id at 1:11:28-35.* The base lot size for the neighborhood was estimated to be 10,000 square feet, with pricing indications of \$2.75/sf and a residual rate of \$2.10/sf. *Dept. Ex. G.* The regression analysis of the CALP yielded a reliability score of .935, which provided further evidence the land value model was accurate. *Id.* The Thuls requested a lot value of \$1,100, and failed to refute any of the CALP data introduced at the hearing. *MTAB Hrg.*

JURISDICTION AND STANDARD OF REVIEW

1. The Board has jurisdiction over this appeal, and its order is final and binding upon all parties unless altered upon judicial review. *MCA §15-2-301*.
2. In reviewing this appeal, "... the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act." *MCA §15-2-301(5)*.
3. The State Board hears County Board appeals de novo. *CHS Inc. v. DOR, 2013 MT 100*. "A trial de novo means trying the matter anew, the same as if it had not been heard before and as if no decision had been previously rendered." *McDunn v. Arnold, 2013 MT 138*.

CONCLUSIONS OF LAW

4. The goal of property appraisal is to arrive at a fair market value. *MCA §15-8-111*. This means all property is appraised at 100% of market value. *Id.* "Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell..." *Id at (2)(a)*. In establishing a correct classification and value, the Department is mandated to "...use information available from any source considered reliable." *Id at (3)*.
5. Mr. Thul did not present a written argument in advance of his hearing. At hearing before this Board, the department presented a matrix of comparable properties that have sold in and around the town of Belt within a few years prior, and these sales prices were consistent with the appraised value set by the Department for the Thuls' home on the statewide lien date of January 1, 2018. *Dept. Ex. C*. The comparable sales were time adjusted to the lien date, and adjusted for the difference in amenities to the subject

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property. *MTAB Hrg. 54:34-56:14*. Those comparable sales range from \$103,697 to \$117,364. *Dept. Ex. C*. At hearing, Mr. Thul did not present an argument as to why the department's comparable sales data, and land pricing data, were in error, except to refer to it as a "put garbage in, garbage out kind of a thing." *Id at 1:33:15*. We should point out, Mr. Thul did not grant the department appraiser's request to inspect his house, leaving the Department with little to go on other than the computer modeling. *MTAB Hrg. 50:53*.

6. Additionally, as the original transaction was six years old, the purchase price paid by the Thuls in 2012 carries little weight for the purposes of appraising for market value on the lien date of January 1, 2018, when all Montana properties are valued by the Department for the 2019/2020 valuation cycle. *MTAB Hrg. 1:4:8-38*.

7. The record shows an absence of any specific information to raise doubt with regard to why the comparable sales prices and land values presented by the Department are unrepresentative of the market or otherwise flawed. *MTAB Hrg.* The legal burden in a tax appeal rests with the taxpayer to show the value established by the Department is incorrect. *Workman v. Dept. of Revenue of the State of Montana, 1997 WL 37203; citing Western Airlines, Inc. v. Catherine J. Michunovich, et al, 149 Mont. 347, 428 P.2d 3 (1967)*. The Thuls failed to meet this burden, and as a result this Board has no choice but to affirm the Department's appraised value.

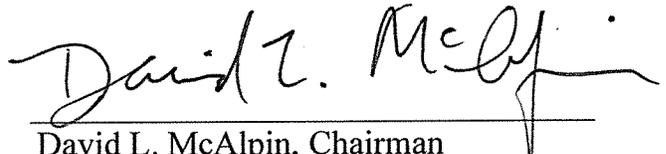
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ORDER

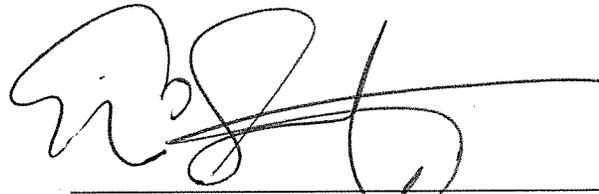
IT IS THEREFORE ORDERED by the Montana Tax Appeal Board that the Department's appraisal stands: the Thuls' land value is \$25,400; and the value for the building and improvements is \$86,000, for a total of \$111,400.

Ordered March 6, 2020




David L. McAlpin, Chairman
MONTANA TAX APPEAL BOARD


Steve Doherty, Board Member
MONTANA TAX APPEAL BOARD


Eric Stern, Board Member
MONTANA TAX APPEAL BOARD

Notice: You are entitled to judicial review of this Order by filing a petition in district court within 60 days of the service of this Order. The Department of Revenue shall promptly notify this Board of any judicial review to facilitate the timely transmission of the record to the reviewing court. MCA §15-2-303(2).

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Certificate of Service

I certify that I caused a true and correct copy of the foregoing Order to be sent by United States Mail via Print and Mail Services Bureau of the State of Montana on March 6, 2020 to:

Robert & Patricia Thul
108 3rd Ave. S
Belt, Montana 59412

Dave Burleigh
Montana Department of Revenue
P.O. Box 7701
Helena, Montana 59604-7701


Lynn Cochran, Paralegal Assistant
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