

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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PAUL F. and PAMELA M. EDWARDS,	)	DOCKET NO.: PT-2010-25
	)	
Appellants,	)	
	)	FACTUAL BACKGROUND,
-vs-	)	CONCLUSIONS OF LAW,
	)	ORDER and OPPORTUNITY
DEPARTMENT OF REVENUE	)	FOR JUDICIAL REVIEW
OF THE STATE OF MONTANA,	)	
	)	
Respondent.	)	

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**Statement of Case**

Taxpayers bring this appeal from the decision of the Ravalli County Tax Appeal Board (CTAB), challenging the value of their property at 1170 Three Mile Creek Road, Stevensville. At the September 15, 2011 hearing before this board, the Taxpayers were represented by Paul Edwards, and the Department of Revenue (DOR) was represented by Amanda Myers, Tax Counsel, and Debra Reesman, DOR Area Manager for Ravalli County.

**Issue**

The issue is whether the land was properly valued by the Ravalli CTAB for tax year 2010. The value of the improvements on the land is not at issue.

## Evidence Presented

1. Taxpayers' residence at 1170 Three Mile Creek Road in Stevensville, Geocode 13-1765-04-1-01-26-0000, was valued by the DOR at \$242,000: \$107,027 for the land and \$134,973 for the improvements. (Property Tax Appeal Form, DOR Exh. A.)
2. Taxpayers filed a timely request for an informal review, citing the decline in the general economy, unemployment and lack of new construction in the county as proof that their property had not increased in value since the 2002 reappraisal. (AB-26 Form, DOR Exh. B.)
3. The DOR completed their review but made no change in the values, concluding "The value accurately reflects the market condition for the appraisal period." (DOR Exh. B.)
4. Taxpayers appealed to the Ravalli CTAB, stating their reason as "Unfair/discriminatory appraisal of property for tax purposes." They requested a value of \$38,284 for the land and \$138,116 for the improvements, for a total value of \$176,400, the appraised value in 2002. (Property Tax Appeal Form, DOR Exh. C.)
5. At the CTAB hearing, Taxpayers presented a fee appraisal of their property done by Darwin Ernst, a certified appraiser who is also a member of the CTAB. Mr. Ernst recused himself and left the hearing. His appraisal was entered into evidence, showing a market value of \$222,000 for the land and improvements for the subject property. (DOR Exh. E.)
6. The fee appraisal was based on the value of three comparable property sales, each house about 30 years old and of similar size and quality. The sales prices were weighted and adjusted for comparability to the subject property and time trended to the statutory appraisal date of July 1, 2008. (DOR Exh. E.)

7. The DOR presented the report of comparable sales upon which they had based their value, using five sales. Two of them were sales that were used in the fee appraisal and the other three were newer homes, about 15 years old, with central heat and air conditioning. (CTAB Exh. D.)
8. The DOR also presented the computer assisted land pricing report (CALP) comparing the sale price data for 215 sales of vacant land from 2004 through 2008. It showed a base rate per acre of \$98,000 for the first acre and \$5,900 for each additional acre in the neighborhood of the subject property. (DOR Exh. D.)
9. The CTAB decision lowered the appraised value to \$222,000 in accord with the fee appraisal, \$97,680 for the land and \$124,320 for the improvements. (Property Tax Appeal Form, DOR Exh. C.)
10. Taxpayers appealed to this Board on April 11, 2011, challenging only the value of the land and not the improvements. (Exh. 1.)
11. Taxpayers calculated the average per-acre value of the five properties listed in the comparable sales list presented at the CTAB hearing (CTAB Exh. D) and concluded that their land value was second highest of the properties listed, at \$42,303 per acre. The lowest was \$22,287 per acre for a 5.6 acre property. (Exh. 1, p. 1.)
12. Taxpayers averaged the price-per-acre values for the four properties lower than theirs, arriving at an average of \$27,033.27 per acre. That is the value they request for their 2.53 acres, for a total of \$68,394.73. (Exh. 1, p. 1.)
13. Taxpayers, using the Montana Cadastral Mapping site, compiled the land values of 20 properties, all located within their neighborhood, showing a range of per-acre values from \$18,000 to \$92,000 to support their claim that the DOR's values are not consistent, fair or equitable. (Exh. 1, p.2.)

14. Ms. Reesman, DOR Area Manager, presented the property record card (DOR Exh. A) indicating the subject property value was set by the market comparison method at \$242,000, \$107,027 for the land and \$134,973 for the buildings. (The values were reduced by the CTAB to \$97,680 and \$124,320 respectively.) (DOR Exhibit A, p.1.)
15. Ms. Reesman also presented a computer assisted land pricing study (CALP) which is used to set the value of the land. The CALP compiled the values of 213 land sales within the 'Taxpayers' neighborhood between 2004 and 2008 to establish a base rate for the first acre of \$98,000 with \$5,900 added for each additional acre. She explained that land prices are not calculated by a simple average price-per-acre calculation because smaller lots are, in fact, more expensive per acre than larger lots. She pointed out sales of one acre, two acre and ten acre lots listed in the CALP that illustrated the actual pricing mechanism of the market. For example, a one acre lot sold in 2004 for \$55,000, while a two acre lot sold for \$60,000 and a ten acre lot for \$85,000 in the same year. The land values in the comparables list (DOR Exh. D) were all calculated on that formula which results in smaller lots having a higher cost-per-acre than larger lots, as 'Taxpayers' calculations illustrated. (DOR Exh. D.)
16. Ms. Reesman also presented a DOR study of land price changes over time by comparing the sale prices of lots that had sold twice during the six-year assessment period. Those nine properties showed an average gain in value of 1.4 percent per month. This figure is used in the CALP to calculate what the sale price of sales prior to the valuation date of July 2008 would have been on July 1, 2008, thereby establishing the base and residual rates of property in that neighborhood on the statutory valuation date. (DOR Exh. D, p.6.)
17. Ms. Reesman explained that these methodologies are standard procedures used by the Department of Revenue state-wide, appraisers nationwide, and

approved by the national appraisal accreditation authorities. (Testimony Reesman.)

### **Principles of Law**

1. The State Tax Appeal Board has jurisdiction over this matter. Section 15-2-301, MCA.
2. All taxable property must be assessed at 100% of its market value except as otherwise provided. §15-8-111, MCA.
3. For the taxable years from January 1, 2009 through December 31, 2014, all property classified in class four must be appraised at its market value as of July 1, 2008. (ARM 42.18.124 (i)(b).)
4. 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 and both having reasonable knowledge of relevant facts. Section 15-8-111(2)(a), MCA.
5. Residential lots and tracts are valued through the use of CALP models. Homogeneous areas within each county are geographically defined as neighborhoods. The CALP models reflect July 1, 2008, land market values. (ARM 42.18.110(7).)
6. The state tax appeal board must give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful. Section 15-2-301(4), MCA.

### **Findings of Fact, Conclusions of Law and Board Discussion**

The Taxpayers in this case bear the burden of proving the value set for their property by the DOR is incorrect and, in this matter, they have failed. Taxpayers claim the DOR must value land by an average-dollar-per-acre

method. The valuation goal established by statute, however, is fair market value and an average-per-acre cost is not how land is valued by the market. The DOR has clearly explained that they have studied the market pricing mechanisms in setting land values in their appraisals. Their use of separate rates for “base” acres and “residual” acres reflects the widely observed fact that purchasers are primarily interested in buying a buildable lot (the “base”) which can vary in size from urban to rural neighborhoods, in the right location. Additional land (the “residual”) has far less value to purchasers. We find the methods used by the DOR are reasonable, fair and equitable, and comply with statutory requirements for valuation.

The DOR has not appealed the adjustment by the CTAB as the resulting value is within the bounds of reasonableness, and we affirm that value.

**Order**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Ravalli County by the local Department of Revenue at the value of \$97,680 for the land and \$124,320 for the improvements, as determined by the Ravalli County Tax Appeal Board.

Dated this 27th day of September, 2011.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

/s/ \_\_\_\_\_  
KAREN E. POWELL, Chairwoman

/s/ \_\_\_\_\_  
DOUGLAS A. KAERCHEK, Member

/s/ \_\_\_\_\_  
SAMANTHA SANCHEZ, Member

**Notice:** You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.



