

BEFORE THE STATE TAX APPEAL BOARD

OF THE STATE OF MONTANA

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1804, Inc., )  
 ) DOCKET NO.: PT-1997-52  
Appellant, )  
 )  
-vs- )  
 )  
THE DEPARTMENT OF REVENUE ) FINDINGS OF FACT,  
OF THE STATE OF MONTANA, ) CONCLUSIONS OF LAW,  
 ) ORDER and OPPORTUNITY  
Respondent. ) FOR JUDICIAL REVIEW  
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The above-entitled appeal came on regularly for hearing on the 4th day of August, 1998, in the City of Thompson Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board).

The notice of the hearing was duly given as required by law. The taxpayer, represented by Curtis Cox, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Edward Thompson, appraiser, and William Haines, appraiser, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing hereon, and of the time and place of said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

A tract in N2N2 &S2N2 S31 T21N R26W,  
containing 19 acres, Sanders County, Montana,  
and the improvements thereon.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$19,938 for the land and \$106,450 for the improvements.

4. The taxpayer appealed to the Sanders County Tax Appeal Board requesting a reduction in value to \$5,000 for the land, and \$5,000 for the improvements.

5. The County Board denied the appeal as to the land, and granted an adjustment to the improvements as 84% complete. The improvement value was thus adjusted to \$101,522.

6. The taxpayer then appealed that decision to this Board. At the hearing before this Board he adjusted the requested value for the land to 18 acres valued as timberland, and the one acre homesite to be valued at \$6,000. He further

modified his requested value for the improvements to \$66,000.

7. The DOR did not appeal the local board decision to this Board.

#### TAXPAYER'S CONTENTIONS

Mr. Cox stated that the subject land was found to be timberland, and since there has been no change it should still be assessed as timberland. The issue of the valuation of a one acre homesite was raised by Mr. Cox. He believes that \$6,000 would be the proper value for one acre in this area, although he knows of no sales of one acre sites.

Mr. Cox testified that the major issue is that of the house that is being built on the site. The subject house is a two story house, 32 feet by 40 feet. In his opinion the house was 60% complete on January 1, 1997. The siding was not installed on portions of all four sides of the house, and the interior was not completed although it was being lived in. The house is being constructed as the owner has the cash to spend on further work. He is doing the work himself, and is calculating his time at \$10 per hour, as that is what he is paying when he has to obtain help from others. There remains to be completed some trim work and finish work. Mr. Cox stated that eventually the house will have three bathrooms, but currently only has two. Carpeting exists in the living areas

on the first floor, although he needed to hire someone to complete the installation after January 1, 1997. He estimates that the house will have a value when complete of \$100,000. He arrived at the completed value estimate by applying \$40 per square foot to the size of the home.

There is also a pole barn on the property that Mr. Cox believes is worth no more than \$5,000. A shed that also exists on the property should be valued at no more than \$500 according to Mr. Cox. He described the shed as an old entry porch that was formerly the entry way to a mobile home. It now has the open side closed in to comprise four walls for storage use. A separate shop type outbuilding is also on the property and described as 32 feet by 20 feet wide. Another shed is located on the land by the DOR, but Mr. Cox testified that it belonged to another party.

#### DOR'S CONTENTIONS

Mr. Thompson provided the Board with the 1997 assessment for this property (Ex A). He also presented the "Neighborhood Group Percent of Change" (Ex B), along with the property record cards for the subject property.(Ex C & D) He presented a map showing the location of the subject property and the locations of the comparable sales found on the second page.(Ex F) The exhibit contains a comparison based upon the square feet of living area of sales of improved property in the

area. The sales were not used to provide a market based appraisal for the subject.

The DOR has valued the subject property using the cost approach to value, and has applied an Economic Condition Factor (ECF) of 108% to the costs used.(Ex C) The DOR value at 95% complete is \$41.84 per square foot for 2,520 square feet.(Ex F) When 100% complete the appraised value will be \$113,371 (calculations from exhibit C). The DOR does not appraise landscaping when determining value or the amount complete. Landscaping may add to appeal of the home, but it is not appraised in the cost approach by the DOR.

#### BOARD'S DISCUSSION

The taxpayer failed to provide any evidence of sales of one acre tracts to support the position that the DOR value of the one acre homesite is in error. The taxpayer failed to present any evidence to support his position that the amount of completion was any less than that already adjusted by the local tax appeal board. The taxpayer presented nothing to indicate the values as determined by the DOR on the various outbuildings was in error.

The comparison of the subject house on a per square foot basis shows that the DOR and the taxpayer are not an extremely great difference apart. In fact, until the modification by the application of the ECF, they are very

close.

The ECF is a market adjustment factor. The International Association of Assessing Officers (IAAO) states:

Market adjustment factors are often required to adjust values obtained from the cost approach to the market. These adjustments should be applied by type of property and area based on sales ratio studies or other market analyses. Accurate cost schedules, condition ratings, and depreciation schedules will minimize the need for market adjustment factors. (IAAO, 1990, Property Appraisal and Assessment Administration, pages 311-312)(Emphasis applied)

Land values are not considered, because the factor is only applied to improvements valued by the cost approach.

An ECF for a neighborhood is derived from sales; but there was no evidence or testimony from the DOR to indicate the ECF applied was developed from sales of properties of the same type, particularly those with unfinished improvements. In fact, the testimony of Mr. Thompson was that sales of property of timber classification are not used in the sales history files to develop market models for valuation purposes. It follows, therefore, that the ECF ought to be removed.

It is, therefore, the opinion of this Board that the taxpayer's appeal as to the land value be denied. The appeal

as to the value of the improvements shall be granted in part and denied in part. The subject improvements value shall be as calculated by the DOR after removal of the application of the economic condition factor of 108%, for which there was no support for the application to an incomplete structure. It is, further, this Board's opinion, that the percentage complete determined by the local tax appeal board be affirmed.

This Board heard several appeals from this taxpayer who either has ownership or control of several properties, both personal and real in Sanders County. It is apparent that the various issues of who the property belongs to at any given time, and where the property is located at any given time can vary in a short span of time. It is also apparent that the taxpayer is unwilling to provide the ownership and location of the property as it continues to change ownership, yet remain in the same control. It should be obvious that the DOR is hampered from doing a proper job of ascertaining the various characteristics of the property when it is denied the opportunity to visit the property with the taxpayer or the taxpayer's representative and visually see what is being complained about. The ability to do so would save the taxpayers a lot of time and money in the eventual determination of correctness.

#### CONCLUSIONS OF LAW

1. 15-8-111. **Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) 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.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

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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 Sanders County by the assessor of that county at the 1997 tax year value of \$19,938 for the land and the value of the improvements as determined by the Department of Revenue in accordance with this Order.

Dated this 20<sup>th</sup> of November, 1998.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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PATRICK E. McKELVEY, Chairman

( S E A L )

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GREGORY A. THORNQUIST, Member

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LINDA L. VAUGHEY, 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.