



**Issue**

The issue before this Board is did the Department of Revenue value the subject properties appropriately for tax purposes for tax year 2009?

**Summary**

Century Hills Ranchettes, L.L.C. is the Taxpayer in this proceeding and, therefore, has the burden of proof. Based on a preponderance of the evidence, the Board upholds the decision of the Yellowstone County Tax Appeal Board.

**Evidence Presented**

1. Due, proper and sufficient notice was given of this matter and of the time and place of the hearing. All parties were afforded opportunity to present evidence, verbal and documentary.
2. The subject properties are 57 contiguous one acre lots, with the following legal description and GEO codes:

Century Hills Ranchettes Subdivision, Section 01, Township  
01S, Range 24E, of Yellowstone County, State of Montana.  
(Appeal Form & Attachment.)

<u>Unit</u>	<u>GEO Code</u>	<u>Unit</u>	<u>GEO Code</u>	<u>Unit</u>	<u>GEO Code</u>
7	03-0925-01-3-01-02-7007	27	03-0925-01-3-01-02-7027	48	03-0925-01-3-01-02-7048
8	03-0925-01-3-01-02-7008	28	03-0925-01-3-01-02-7028	49	03-0925-01-3-01-02-7049
9	03-0925-01-3-01-02-7009	29	03-0925-01-3-01-02-7029	50	03-0925-01-3-01-02-7050
10	03-0925-01-3-01-02-7010	30	03-0925-01-3-01-02-7030	51	03-0925-01-3-01-02-7051
11	03-0925-01-3-01-02-7011	31	03-0925-01-3-01-02-7031	52	03-0925-01-3-01-02-7052
12	03-0925-01-3-01-02-7012	32	03-0925-01-3-01-02-7032	53	03-0925-01-3-01-02-7053
13	03-0925-01-3-01-02-7013	33	03-0925-01-3-01-02-7033	54	03-0925-01-3-01-02-7054
14	03-0925-01-3-01-02-7014	34	03-0925-01-3-01-02-7034	55	03-0925-01-3-01-02-7055
15	03-0925-01-3-01-02-7015	35	03-0925-01-3-01-02-7035	56	03-0925-01-3-01-02-7056
16	03-0925-01-3-01-02-7016	36	03-0925-01-3-01-02-7036	57	03-0925-01-3-01-02-7057
17	03-0925-01-3-01-02-7017	37	03-0925-01-3-01-02-7037	60	03-0925-01-3-01-02-7060
17	03-0925-01-3-01-02-7018	38	03-0925-01-3-01-02-7038	61	03-0925-01-3-01-02-7061
19	03-0925-01-3-01-02-7019	39	03-0925-01-3-01-02-7039	62	03-0925-01-3-01-02-7062
20	03-0925-01-3-01-02-7020	40	03-0925-01-3-01-02-7040	63	03-0925-01-3-01-02-7063
21	03-0925-01-3-01-02-7021	41	03-0925-01-3-01-02-7041	64	03-0925-01-3-01-02-7064
22	03-0925-01-3-01-02-7022	42	03-0925-01-3-01-02-7042	65	03-0925-01-3-01-02-7065
23	03-0925-01-3-01-02-7023	43	03-0925-01-3-01-02-7043	66	03-0925-01-3-01-02-7066
24	03-0925-01-3-01-02-7024	44	03-0925-01-3-01-02-7044		
25	03-0925-01-3-01-02-7025	45	03-0925-01-3-01-02-7045		
26	03-0925-01-3-01-02-7026	46	03-0925-01-3-01-02-7046		

3. For tax year 2009, the DOR originally appraised the subject properties at a value of \$2,266 per lot (\$1,823 for the land and \$443 for the improvements). (CTAB Exhs. A1-A56, p.2.)
4. The DOR used a CALP (Computer Assisted Land Pricing) model to value the subject properties. This resulted in an unadjusted land value for each of the subject properties of \$34,600. The CALP in this instance is based on 96 vacant land sales. The CALP sales and the subject property are all located in Neighborhood 001, which is a geographic area designated by the DOR as having similar characteristics for purposes of valuation. (Nelson Testimony, DOR Exh. B.)
5. An influence factor of 17% was applied to the CALP value for the subject properties because it is undeveloped raw land that is platted and recorded. This is also known as “Developer’s Discount.” These properties have no access or services. (Nelson Testimony, CTAB Exh. C, p. 7.) Another 31% influence factor was applied to reflect restrictions and non-conforming use. In this case the lots are restricted from use in the By-Laws of the Century Hills Ranchettes Homeowners Association until a completed phase is ready to develop. After the application of these two influences the DOR subsequently valued each lot at either \$1,823 or \$1,824 depending on slight variances. (Nelson Testimony, CTAB Exh. C, p. 8.)
6. The Taxpayer is requesting the 2002 assessed value of \$642 per lot for the 2008 appraisal cycle. (Ray Testimony.)
7. Century Hills Ranchettes Subdivision has a total of four phases with a total of 77 lots. Only phase one has been completed and Taxpayer has

- no plans to develop the other three phases. (Testimony Ray, Exh. 1, Plat.)
8. Phase One consists of 16 units built and sold. (Testimony Ray.)
  9. The Taxpayer filed a Request for Informal Review (AB-26) for each of the disputed lots on September 10, 2009, asking for an informal review meeting to provide additional information. (CTAB Exh. A6, p. 3.)
  10. On May 13, 2010, the DOR issued its final determination and did not make any adjustments to the subject property, noting:

“This parcel is vacant & unimproved. There are no roads or services. Land sales from Jan 1, 2004 through June 30, 2008 were used to develop land values. A 95% reduction for unimproved & restrictions has already been applied. No further changes will be made.” (CTAB Exhs. A6, p. 3.)
  11. The Taxpayer filed an appeal with the Yellowstone County Tax Appeal Board (CTAB) on June 1, 2010, stating:

“See Attached Breakdown of the unit # and Geo Codes for these lots. These multiple lots in Century Hills Ranchettes Subdivision are a phase development, see attached plot map, these lots cannot be sold individually until the phase is “activated” or improved as per our Subdivision Improvement Agreement (SIA). This un-developed land is fenced off and posted No Trespassing, due to the recent economy there are no plans to develop this un-developed land at this time. We are requesting the values of the multiple Century Hills Lots to remain at \$642.” (Appeal Form.)
  12. The Yellowstone CTAB heard the appeal on July 21, 2010, and upheld the DOR value for the subject properties. (Appeal Form.)
  13. The DOR originally assessed a common road, and applied \$443 as a portion of that improvement to each of the lots. This proved to be in error and was removed from the assessment before the Board’s hearing. (Nelson Testimony.)

14. The Taxpayer appealed to this Board on July 26, 2010, stating:

“This value is too high. The Department of Revenue needs to reuse (*sic*) to be in accordance w/ the condo doc’s. Therefore, spreading the improvements only over the 1/(*sic*) of all completed units.” (Appeal Form Attachment.)
15. The Taxpayer also testified the area is severely blighted with poor roads and no good water. (Ray Testimony.)
16. During the hearing, the DOR testified they had completed an agricultural value analysis on the property prior to the assessment. They could not apply agriculture assessment to the subject properties because of restrictions in the homeowner’s agreement to livestock being within the subdivision. (Nelson Testimony.)
17. If agricultural valuation were applied to the subject lots, they would only be eligible as non-qualifying agriculture land, therefore, the tax bill would be almost exactly the same as the current tax bill. (Nelson Testimony.)

### **Principles of Law**

1. The State Tax Appeal Board has jurisdiction over this matter. (§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. 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. (§15-8-111(2)(a), MCA).
4. 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).)

5. The appraised value supported by the most defensible valuation information serves as the value for ad valorem tax purposes. (ARM 42.18.110(12).)
6. Parcels may not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act. (§15-7-202(4).)
7. Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has stated covenants or other restrictions that effectively prohibit its use for agricultural purposes. (§15-7-202(5).)
8. "Nonqualified agricultural land" means parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under §15-7-202(1), MCA. (ARM 42.20.601(21).)
9. Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder. (§76-3-103(16)(b).)
10. The state tax appeal board must give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful. (§15-2-301(4), MCA.)

### **Board Discussion and Conclusions of Law**

The Board must determine, based on a preponderance of the evidence, whether the DOR set an appropriate valuation for the subject properties for tax year 2009. In this instance, we will review whether the DOR properly valued taxpayer's lots for tax purposes.

As a general rule, the appraisal of the Department of Revenue is presumed to be correct and the Taxpayer must overcome this presumption.

The Department of Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. *Farmers Union Cent. Exch. v. Department of Revenue*, 272 Mont. 471, 901 P.2d 561, 564 (1995); *Western Airlines, Inc., v. Michunovich*, 149 Mont. 347, 353, 428, P. 2d 3, 7, *cert. denied* 389 U.S. 952, 19 L. Ed. 2d 363, 88 S. Ct. 336 (1967).

Given the statutory definition of market value, *i.e.*, the value at which property would change hands between a willing buyer and a willing seller, the “market” approach using comparable sales is the preferred approach in valuing residential property when adequate data is available.

This Board concludes the evidence presented by the DOR did support the values assessed. This Board also concludes the Taxpayer has not provided evidence that the DOR appraised value for July 1, 2008 is not fair market value. As part of the standard mass appraisal system, the DOR uses a CALP model, in this case based on 96 vacant land sales. From that sample, the Department applied a size adjustment to the subject lots. The DOR also applied two influences to the CALP results in order to reflect an undeveloped subdivision and restrictions to the use of property. This reduced the value of a base one acre lot from \$34,600 to \$1,823 per lot.

The Taxpayer argues this property may never be developed and is so severely blighted that the value should not be more than the 2002 assessed value of \$642. The Taxpayer also argues that because this property is undeveloped in its natural state, it should be classified as agricultural ground.

The DOR contends they would classify the subject properties as non-qualified agricultural if it weren't for the restrictions that prohibit agricultural use. Further, under Montana law, platted land may not be considered as agricultural land. §15-7-202(4) MCA. The Department also contends a reduction in the property's value has been made in accordance with Montana

law, and in fact the valuation has been so significantly reduced that it is now equal to non-qualified agricultural land.

Evidence shows the DOR applied influence factors, which left an assessed value of only 5 or 6% of similar properties located in Neighborhood 001 of Yellowstone County. The Board finds the Department's evidence and testimony to be credible and concludes the reduction applied by the DOR is significant enough to cover any deficiencies noted on the properties. The Taxpayer failed to provide any information that the DOR appraised value for July 1, 2008 is not fair market value.

Thus, this Board finds the assessed value set by the DOR is correct and the decision of the Yellowstone County Tax Appeal Board is affirmed.

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**Order**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject properties value shall be entered on the tax rolls of Yellowstone County at a 2009 tax year value of either \$1,823 or \$1,824 as determined by the Department of Revenue and affirmed by the Yellowstone County Tax Appeal Board.

Dated this 5th of October, 2010.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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

( S E A L )

/s/ \_\_\_\_\_  
DOUGLAS A. KAERCHER, 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 t his Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 5<sup>th</sup> day of October, 2010, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Century Hills Ranchettes, L.L.C.                     U.S. Mail, Postage Prepaid  
2646 Grand Ave. Suite #1                             Hand Delivered  
Billings, Montana 59102                             E-mail

Robin Rude     U.S. Mail, Postage Prepaid  
Vicki Nelson      Hand Delivered  
Yellowstone County Appraisal Office            E-mail  
175 North 27<sup>th</sup> Street Suite 1400                 Interoffice  
Billings, MT, 59102

Michelle R. Crepeau                                    U.S. Mail, Postage Prepaid  
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/S/ \_\_\_\_\_  
DONNA EUBANK  
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