

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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THE DEPARTMENT OF REVENUE ) OF THE STATE OF MONTANA, )	)	DOCKET NO.: PT-2011-18
	)	
Appellant,	)	
	)	
-vs-	)	
	)	ORDER and OPPORTUNITY
GLORIA B. LEWIS,	)	<u>FOR JUDICIAL REVIEW</u>
	)	
Respondent.	)	

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This matter comes before the Board by appeal of the Department of Revenue (DOR) from a decision of the Lincoln County Tax Appeal Board (CTAB) granting the Taxpayer’s requested value on her appeal because the CTAB did not hear her appeal during its most recent session. (February 21, 2012 decision of the Lincoln CTAB.) Montana statutes require the granting of the Taxpayer’s appeal if the CTAB “refuses or fails” to hear the application by its final meeting for that year. (§15-15-103(2), MCA.)

Before reaching the substance of the claim, it is necessary to review the procedural history. In this instance, the Lincoln County Tax Appeal Board received an appeal, set a hearing date, and notified the Taxpayer of the hearing. Taxpayer failed to respond to accept the date of the hearing. Despite a second notice and extension of the deadline for reply, she did not agree to the hearing date or request any other schedule for a hearing. (August 29, 2011, Notice of Hearing by the Lincoln County Tax Appeal

Board; September 6, 2011 letter from Lincoln CTAB extending the response deadline.) It is clear from the record before us that the reason for the CTAB's failure to complete this case was the Taxpayer's failure to respond to the proposed scheduling of her hearing. The CTAB dismissed her appeal, as required by statute. (Letter of September 12, 2011 from Lincoln CTAB.) The CTAB subsequently sent the second letter granting the Taxpayer's appeal, apparently because the board determined it failed to hold a hearing on the appeal, despite Taxpayer's failure to respond. (Letter of February 12, 2012 from Lincoln CTAB.)

Throughout the entire appeal process, including the submissions to this Board, Taxpayer has failed to specify a requested value, which is required on the appeal form, and she did not submit any supporting evidence for an alternative value, so her appeal is simply a general denial of her property tax obligation with no specific claim of incorrect valuation. On her tax protest form, she wrote the entire amount of the tax owed as being the amount in dispute, despite clear instructions on the form to specify only the amount at issue and not the entire amount.

The CTAB's second decision fails to state the value granted ("unknown"), presumably because none was ever requested or discussed, making their decision unenforceable and, therefore, invalid on its face. The lack of a factual record makes the appeal of that "unknown" value impossible for this Board to evaluate, which would leave the DOR without an effective appeal of the CTAB decision. It also leaves the DOR without any idea of the value to be placed on the property, so the order cannot be implemented. The essence of the problem is that the Taxpayer failed to properly complete her application for appeal, failed to advance her appeal

by appearing at her hearing, and failed to cooperate with the CTAB in setting a new date. She did not, therefore, exhaust her remedies before the CTAB, as required by §§15-15-103(1) and 15-15-104(1), MCA, before her case can be considered on appeal by this Board. She cannot win her CTAB appeal simply by refusing to participate and then claiming a default judgment at the end of the CTAB session. The CTAB's initial dismissal of the appeal was correct. The letter later granting her appeal was, therefore, clearly incorrect and must be set aside as a mistake of law.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the order of the Lincoln CTAB granting Taxpayer's requested "unknown" value is reversed and the last value established by the DOR pursuant to two AB-26 informal appeals is reinstated. The Taxpayer is free to file an appeal of her 2012 appraised value with the County Tax Appeal Board.

DATED this 19th day of April, 2012.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

/s/ \_\_\_\_\_

KAREN E. POWELL, Chairwoman

( S E A L )

/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.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 19th day of April, 2012, 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:

Gloria B. Lewis  
P.O. Box 1568  
Libby, Montana 59923

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 E-mail

Bill Boss  
Lincoln County Appraisal Office  
952 East Spruce Suite 600  
Libby, Montana 59923

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 E-mail  
 Interoffice

Amanda L. Myers  
Michelle R. Crepeau  
Office of Legal Affairs  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 E-mail  
 Interoffice

Lincoln County Tax Appeal Board  
c/o Jill Blomdahl, Secretary  
Clerk and Recorder's Office  
512 California Avenue  
Libby, Montana 59923

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DONNA EUBANK,  
paralegal

