

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

MARK CAHILL,)	DOCKET NO.: PT-2011-20
)	
Appellant,)	
)	FACTUAL BACKGROUND,
-vs-)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
THE DEPARTMENT OF REVENUE)	FOR JUDICIAL REVIEW
OF THE STATE OF MONTANA,)	
)	
Respondent.)	

Statement of Case

Mark Cahill (Taxpayer) appealed a decision of the Flathead County Tax Appeal Board (CTAB) relating to the Department of Revenue's (DOR) valuation of property located at 1725 3rd Avenue West, Columbia Falls, Montana. The Taxpayer argues the DOR overvalued the property for tax purposes, and seeks a reduction in value assigned by the DOR. A hearing was held by the Flathead County Tax Appeal Board at which Mark Cahill represented himself. Daniel Lapan and Dana Morgan, DOR residential appraisers, presented testimony and evidence in opposition to the appeal. The State Tax Appeal Board (Board) heard the matter telephonically on May 30, 2012. Mark Cahill appeared telephonically on his own behalf. Teresa Whitney, Department of Revenue tax counsel, Daniel Lapan, DOR residential appraiser, and Scott Williams, area manager, represented the DOR telephonically.

The duty of this Board, having fully considered the exhibits, evidence, submissions and all matters presented, is to determine the appropriate market value for the property based on a preponderance of the evidence.

Issue

The issue before this Board is whether the Department of Revenue valued the subject property appropriately for tax purposes for tax year 2011.

Summary

Based on a preponderance of the evidence, the Board upholds the decision of the Flathead 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 verbal and documentary evidence.
2. Mark Cahill is the Taxpayer in this proceeding and, therefore, has the burden of proof.
3. The subject residential property is described as Lot 18, Block 2 of the Lenonville Addition to the City of Columbia Falls, Montana, and the improvements located thereon with a geocode of 07-4186-17-1-22-01-0000. (Appeal Form.)
4. For tax year 2011, the DOR used a CALP (Computer Assisted Land Pricing model) to establish the values of \$111,340 for Lot 18 and \$136,760 for the improvements, for a total value of \$248,100. (DOR Exhs. A & M).
5. The Taxpayer appealed, and requested a value of \$80,000 for the land and \$67,000 for the improvements. (Appeal form.)
6. At the county tax appeal board, the CTAB upheld the total DOR value, but adjusted the land to \$186,100, and the buildings to \$61,920. (Appeal form.)

7. Before the State Tax Appeal Board, the Taxpayer contends that the land value should be lowered to \$109,688 and the improvements to \$47,000 for a total of \$156,688. (Testimony Cahill.)
8. Cahill argues that the U.S. residential housing market was in decline by 2008, and thus the Department's valuation model was not valid. (Taxpayer Exh. A.)
9. Further, Cahill argues that his neighboring properties are valued much lower than his properties. (Taxpayer's Exh.1: neighboring properties' PRC's.)
10. Cahill notes that he does not have public water to his property but rather has a well on his property. (Taxpayer Exh. B, p. 2.) He argues that his house has a very low value because it has not been updated.
11. The Taxpayer also stated that his property is steep and rocky, and access to the river is compromised. (Testimony Cahill.)
12. One of the key issues in the case is that the subject property has a public pedestrian trail easement which crosses the property from the adjacent Red Bridge Road to the public trail on the adjacent property, and has signage to indicate the public access. (Testimony Cahill, Taxpayer Exh. B, p. 3-4.)
13. The Taxpayer testified that the easement across his property for a walking path has created on-going problems with additional garbage, traffic and noise to his property and he is severely limited in his use of the waterfront area for boats, docks, etc. (Testimony Cahill.)
14. He also claims that the properties in the nearby area are run-down apartment buildings. (Testimony Cahill.)

15. The parties agreed there are no other properties in his area with an easement across the properties, though some neighboring properties do have walking paths across them (without legal easements).
16. The Department's appraiser repeatedly testified that he believed the property was undervalued for tax purposes. (Testimony Lapan.) The CALP used by the DOR did not use riverfront property to value the Cahill property, but instead used non-riverfront properties for valuation. (Testimony Williams.)
17. The appraiser testified that the land itself would be valued at \$291,990 if valued using a water front-foot valuation model. He testified that the walking path did not devalue the property because it could not be seen from the house, and that all waterfront property has public access below the high water mark. (Testimony Lapan.)
18. The Department provided comparable sales data that demonstrated the per front foot value of the Taxpayer's property was below the sales price of other riverfront property. Taxpayer's property was valued at \$429.00 per front foot, while comparable properties sold for values ranging from \$1,250.00 to \$1,639.00. The comparable properties presented did have significantly less front footage and acreage than the subject property. (DOR Exh. N (*confidential*)).
19. The Department provided a second comparable property sheet, with an additional three properties with riverfront property which were significantly closer to the subject property in location and size. These properties indicated front-foot values in the range of \$681.32 to \$1,510.00. (DOR Exh. H.)
20. The Taxpayer argued that the riverfront properties used by the DOR to provide justification of the value were valued at the height of the market,

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were speculative purchases, and don't reflect the value of his property on July 1, 2008. (Testimony Cahill.)

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. It is the duty of the department of revenue to implement the provisions for a general and uniform method of appraising city and town lots. (§15-7-103(1)(b), 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. For the taxable years from January 1, 2009, through December 31, 2014, all class four property must be appraised at its market value as of July 1, 2008. (ARM 42.18.124(b).)
7. The appraised value supported by the most defensible valuation information serves as the value for ad valorem tax purposes. (ARM 42.18.110(12).)
8. To achieve statewide equalization, all residential property in the state must be appraised at its market value as of July 1, 2008. (ARM 42.18.124(1)(b).)

9. 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 property for tax year 2011.

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).

The Department may use different approaches (for example, market, income, and/or cost approaches), depending on available data, to appraise a property. *See, e.g., Albright v. Montana Department of Revenue*, 281 Mont. 196, 933 P.2d 815 (1997).

The Taxpayer argues his property is overvalued by the Department due to a number of issues affecting the property, including the easement across his property and the steepness of the slope. He also argues that his home is overvalued due to its age and lack of upgrading. The Department contends that the property is already undervalued for tax purposes, and the easement does not affect property values.

We have reviewed the evidence and the arguments in this matter. We would first note that there is no doubt that a legal easement across a property affects the value of real property, and it is not appropriate for the DOR to deny

the effects of such an easement. Any colorable stain on title of land will affect, in some way, its salability and thus, its market value. In this instance, the easement is being used as a signed pedestrian path, and brings with it negative valuation for the landowner.

On the other hand, the Department has demonstrated that the subject property is valued, on a waterfront front-foot basis, at a significantly lower basis than neighboring properties. Waterfront property is typically valued on a front-foot basis. *See, e.g. Roth v. DOR*, PT-2010-12; *Baker v. DOR*, PT-2009-147. In this instance, we find the evidence demonstrates that the front foot valuation is proper. The neighboring properties brought by the Taxpayer had less front footage than the subject lot, and thus it is expected that those lots have a lower value¹. We do not have sufficient information on the neighboring lots to make a determination on whether the values on those lots are comparable.

Here, the evidence also demonstrates, however, that a lower valuation than neighboring properties, on a front foot basis, is appropriate to reflect the easement across the subject property. In this instance, the property would have been valued at \$291,990 if the correct front foot modeling was used. Instead, the land is valued at \$186,100, which is approximately 64% of the proper valuation model, for a \$105,890 discount. We find that the value set by the CTAB is appropriate, as it is sufficiently reduced to recognize that the property has a well-used public easement on the property. Further, the valuation set by the county tax appeal board for the improvements is sufficiently reduced to more than reflect the age and condition of the improvements.

¹ If the comparable properties were valued using the non-waterfront valuation model, it may be necessary for the DOR to review or adjust valuation for the riverfront properties per §15-7-112, MCA, and §15-8-601, MCA.


A county tax appeal board is uniquely suited to evaluate local real estate markets and specific neighborhoods relative to its county and is able to apply this expertise to individual properties. We see no evidence or argument presented which indicates a need to overturn their decision.

Order

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property be entered on the tax rolls of Flathead County at a 2011 tax year value of \$186,100 for the land and \$61,920 for the improvements, as determined by the Flathead County Tax Appeal Board.

Dated this 14th day of June, 2012.

BY ORDER OF THE
STATE TAX APPEAL BOARD



KAREN E. POWELL, Chairwoman

(SEAL)



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 14th day of June, 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:

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