

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

WILLIAM C. McLAUGHLIN,)	DOCKET NO.: PT-2009-131
)	
Appellant,)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE OF THE STATE OF MONTANA,)	ORDER and OPPORTUNITY FOR JUDICIAL REVIEW
)	
Respondent.)	

Statement of Case

William C. McLaughlin (Taxpayer) appealed a decision of the Lake County Tax Appeal Board (CTAB) relating to the Department of Revenue’s (DOR) valuation of his property located in Lake County at 34819 Snowberry Lane, Polson, Montana. The Taxpayer argues the DOR overvalued the property for tax purposes, and he seeks a reduction in value assigned by the DOR. At the State Tax Appeal Board (Board) hearing held on March 11, 2011, the Taxpayer represented himself, providing testimony and evidence in support of the appeal. The DOR, represented by Amanda Myers, Tax Counsel; Scott Williams, Regional Manager, and Jim Bach, DOR appraiser, presented testimony and evidence in opposition to the appeal.

The Board having fully considered the testimony, exhibits, and all matters presented, finds and concludes the following:

Issue

The issue before this Board is whether the Department of Revenue determined an appropriate market value for the subject property for tax year 2009.

Summary

William C. McLaughlin is the Taxpayer in this proceeding and, therefore, has the burden of proof. Based on a preponderance of the evidence, the Board affirms the decision of the Lake 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 and testimony.
2. The subject property is a Flathead Lake water front lot measuring 175 feet by 370 feet plus an additional 0.574 acre of residual land in the rear of the lot, with the following legal description:

Finley Point Villa Site, Lot 3 of Block 6, Section 7,
Township 23N, Range 19W, of Lake County, State of
Montana. (Exh. C.)
3. For tax year 2009, the DOR originally appraised the subject property at a value of \$1,618,000; \$1,296,378 for the land and \$321,622 for the improvements. (Appeal Form, Exh. B.)
4. The DOR used the market approach to value the subject property and a CALP (Computer Assisted Land Pricing) model to break out the value the land, as of the July 1, 2008 valuation date. (Exhs. E, F, G, H, I & J.)
5. The CALP in this instance is based on 14 lake-frontage land sales. The CALP sales and the subject property are all located in Neighborhood 300A, which is a geographic area designated by the DOR as having

- similar characteristics for purposes of valuation. In this instance, all the properties are located on Flathead Lake with lake frontage. (Williams Testimony, Exh. J.)
6. Using the CALP, the DOR established a front-foot value of \$8,770 per foot for the first 100 linear feet of waterfront property and \$2,995 a linear foot for any residual footage. (Williams Testimony, Exhs. I & J.)
 7. The Taxpayer filed a Request for Informal Review (AB-26) with the DOR. During the AB-26 process, the DOR appraiser adjusted the property value to \$1,272,900, \$993,757 for the land and \$279,143 for the improvements. (Bach Testimony, Exhs. A & C.)
 8. The Taxpayer filed an appeal with the Lake County Tax Appeal Board (CTAB) on September 22, 2010, stating:

“Result of AB-26 still much higher than current real value of property.” (Appeal Form.)
 9. The Lake CTAB heard the appeal on December 15, 2010, and adjusted the DOR value on the subject property because of a small useable shoreline, no well and topography. They set the value at \$1,085,900; \$825,757 for the land and \$260,143 for the improvements. (Appeal Form, Exh. B.)
 10. The Taxpayer appealed to this Board on January 18, 2011, stating:

“Review of comparable property in our neighborhood shows DOR assessed value still inequitably high, even after adjustment.” (Appeal Form.)
 11. Mr. McLaughlin argued for a value of \$990,000: \$750,000 for the land and \$240,000 for the improvements based on what he thought his property would sell for in the current market. (McLaughlin Testimony, Appeal Form.)

12. During the hearing Mr. McLaughlin did not argue the value of the improvements. Rather he presented general parcel information on neighboring properties showing the overall front-foot value of the subject property was more than those submitted. (McLaughlin Testimony, Exhs. 1 through 6.)
13. Mr. McLaughlin believes his property is on the “low rent side of Finley point” and should be valued accordingly. He also believes the CTAB value to be very close to the correct value. (McLaughlin Testimony.)
14. The Taxpayer supplied two fee appraisals, used for refinancing purposes, at the CTAB hearing to justify his requested value. One completed on May 19, 2006 for \$1,042,535 and the other was completed on June 16, 2009 for \$1,185,000. (CTAB Exh. 3.)
15. The DOR provided a comparable sales report showing three properties with similar attributes and located very near the subject property to support its valuation. (Exh. E.)
16. At the hearing, Williams explained the methodology and calculations for computation of the land values for the subject neighborhood. The time-trending of values takes into account the increase and the decrease in the market during this appraisal cycle, to arrive at a value for each sale as of July 1, 2008, the statutory appraisal date. (Williams Testimony, Exhs. J & K.)

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. 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).)
 6. The appraised value supported by the most defensible valuation information serves as the value for ad valorem tax purposes. (ARM 42.18.110(12).)
 7. When considering any objection to the appraisal of property, the department may consider independent appraisals of the property as evidence of the market value of the property. (ARM 42.20.455(1).)

Findings of Fact and Conclusions of Law

The Board must determine, based on a preponderance of the evidence, whether the DOR set an appropriate value for the subject property for tax year 2009. In this instance, we will review whether the DOR properly valued the subject property.

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 DOR appraised the subject property using standard methodologies, including comparable sales and cost analysis, to determine market value. The DOR appraiser testified he reviewed the subject property and determined there

were some deficiencies, such as a steep shoreline and deferred maintenance on the improvements, requiring adjustments. Adjustments were made to both the land and the improvements, reducing the subject property to \$1,272,900. He then verified his adjusted value with other comparable sales on Flathead Lake. The appraiser also testified the property was very attractive, in a very good location and therefore, he considered the adjusted DOR values to be correct. We find the DOR appraiser and the evidence presented to be credible, and we find no substantial errors in the DOR's valuation.

Further, we find that the Taxpayer failed to provide evidence that the value set by the DOR is not market value. The Taxpayer attempts to contradict the DOR's value by submitting general parcel information about neighboring properties, yet he does not attempt to make any adjustments for size or property characteristics. The Taxpayer also submitted two long form appraisals completed for refinancing purposes to justify his requested value, however, these appraisals when time trended to the statutory July 1, 2008, appraisal date, are closer the DOR values than his requested value.

The Taxpayer contends he could not sell his property for the value the DOR has assessed. The Board notes property values fluctuate with the economic climate and the only way to achieve statewide equalization is to use the same appraisal date and methods for all properties being valued. Thus, all taxpayers experience the same increase or decrease and share the tax burden equally. Therefore, this Board does not give weight to the Taxpayer's contention that value is overstated when judged by its present value.

We find no errors in the Department's valuation methodology. The CTAB, however, further reduced the value of the property to \$1,085,900. CTABs are uniquely suited to evaluate local real estate markets and specific neighborhoods relative to their county and are able to apply this expertise to

individual properties. The Board reviewed the photo evidence and comparable properties submitted by the DOR and finds the subject property suffers from several negative influences, thus justifying the reduced value set by the CTAB.

Thus it is the opinion of this Board that the assessed value set by the DOR was correctly modified by the decision of the Lake County Tax Appeal Board.

Order

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property value shall be entered on the tax rolls of Lake County at a 2009 tax year value of \$1,085,900 as determined by the Lake County Tax Appeal Board.

Dated this 17th day of March, 2011.

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 17th day of March, 2011, 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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/s/ _____
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