

**BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA**

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JERRY MEINHARDT,	)	DOCKET NO.:	PT-2010-10
	)		
Appellant,	)		
	)	FACTUAL BACKGROUND,	
-vs-	)	CONCLUSIONS OF LAW,	
	)	ORDER and OPPORTUNITY	
DEPARTMENT OF REVENUE	)	FOR JUDICIAL REVIEW	
OF THE STATE OF MONTANA,	)		
	)		
Respondent.	)		

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Jerry Meinhardt (Taxpayer) appealed a decision of the Cascade County Tax Appeal Board (CTAB) relating to the Department of Revenue’s (DOR’s) valuation of his property identified as Unit 44 of Cottonwoods Condos, Great Falls, Montana. Taxpayer claims the DOR overvalued his property for tax purposes and seeks a reduction in the value assigned by the DOR. 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. A hearing was held by the Cascade County Tax Appeal Board at which Taxpayer represented himself. The DOR was represented by Joan Vining, area manager. The State Tax Appeal Board (Board) set the matter to be heard on the record without objection by the parties. The record includes the materials submitted to the county tax appeal board, the transcript of the hearing, and any additional material submitted to this Board pursuant to the scheduling order in this matter.

### 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

Jerry Meinhardt is the Taxpayer in this action and therefore bears the burden of proof. Based on a preponderance of the evidence, the Board upholds the findings of the Cascade 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, written and documentary.
2. The property is a single condominium unit located at 1540 Meadowlark Drive, Great Falls, Montana with the following legal description:  

Unit A44, Cottonwoods Condo, COU Addition, Section 14, Township 20N, Range 3E, of Cascade County, Montana. (Exh. C.)
3. For tax year 2009, the DOR originally valued the subject property at \$106,000 using the market approach, with a land value of \$9,380 and the improvements valued at \$96,620. (Vining Testimony, Exh. C.)
4. The Taxpayer is asking for a value of \$94,000 consisting of \$4,000 for the land and \$90,000 for the improvements. (Appeal Form.)
5. The Taxpayer purchased the property on October 26, 2009 for \$100,000. The purchase was directly between the seller and the Taxpayer without a realtor or public sale listing because the seller was moving out of state. (Meinhardt Testimony.)
6. The Taxpayer filed a Request for Informal Review (AB-26) on August 6, 2010. The DOR reviewed the sales used to value the property and

- determined the value to be fair and equitable. (Vining Testimony, Exh. A.)
7. The Taxpayer filed an appeal with the Cascade County Tax Appeal Board (CTAB) on September 1, 2010, claiming the property is overvalued. (Appeal Form.)
  8. A hearing was held on September 22, 2010.
  9. The Taxpayer submitted a unit roster and phone numbers of the Cottonwoods Condo Association membership and several letters from other owners stating why the value is too high. (Meinhardt Testimony, Exh. 1.)
  10. The DOR appraiser testified that the DOR used the market approach to value the subject property. The appraiser provided the comparable sales report to support the value assessed. (Vining Testimony, Exh. E.)
  11. The DOR based residential market values for the current appraisal cycle on residential condominium property sales which took place between November 1, 2006 and February 20, 2008. The DOR used five comparable properties from the same area to value the subject property; four of those condominium properties were in the same building as the subject property. The characteristics of the sale properties are compared to the characteristics of the subject property to select those properties most comparable to the subject. The market value of the subject is then based on these comparable sales, after adjustments including time adjustments, to make the comparable properties conform to the subject. (Vining Testimony, Exh. E.)
  12. The DOR used a Computer Assisted Land Pricing (CALP) model to allocate a land value of \$9,380 for the subject property. The CALP is

based on sales of 129 different properties. There was no indication that the sales were not arms length sales. (Exh. D.)

13. The Department uses “neighborhoods” to group comparable properties and set valuation based on those comparable sales. Homogeneous areas within each county are geographically defined as neighborhoods. The residential lot value for condominiums, like all other land with improvements, is allocated through the Computer Assisted Land Pricing models (CALP) and the CALP models reflect July 1, 2008, land market values. (ARM 42.18.110(7).)
14. The DOR determined that 10,000 square feet is the base size for valuing lots in the subject neighborhood. The first 10,000 square feet are valued at \$3.81 a square foot and each additional square foot is valued at \$2.52. (Exh. D.) All of the sale properties used in the CALP were bare tract land, had sale dates prior to the revaluation date of July 1, 2008 and were from Neighborhood 006 of the Great Falls. (Exh. D.)
15. The CTAB upheld the DOR’s valuation stating the following reasons for denial:

“After hearing testimony and reviewing exhibits, the Board concurs with the Dept. of Revenue’s land value of \$9,380.00 and building value of \$96,620.00 as being actual market value.”  
(Appeal form.)
16. The Taxpayer appealed to this Board on October 15, 2010. His reason for appealing was stated as:

“My appeal was denied – after providing documentation and clear reasons why I was protesting. Along with price I paid. Also I am unaware of their justification for denial.” (Appeal form.)

### Principles of Law

1. The State Tax Appeal Board has jurisdiction over this matter. (Section 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. If sufficient, relevant information on comparable sales is available, the department shall use the comparable sales method to appraise residential condominium units. (§15-8-111(4)(a), MCA.)
5. Each unit of a condominium project is considered a parcel of real property subject to separate assessment and taxation. Each unit owner must be assessed for the unit owner's percentage of undivided interest in elements of the condominium project owned in common by the unit owners. (§15-8-511(1), MCA.)
6. 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).)
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. For the taxable years from January 1, 2009, through December 31, 2014, all class four properties must be appraised at its market value as of July 1, 2008. (ARM 42.18.124(b).)

9. The actual selling price of comparable sales must be adjusted to a value consistent with the base year. (ARM 42.20.454(1)(h).)
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.)

### **Findings of Fact, Conclusions of Law, and Board Discussion**

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 2009.

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).

This Board concludes the evidence presented by the DOR did support the values assessed. This Board also concludes the Taxpayer has not provided relevant evidence that the DOR appraised value for July 1, 2008 is incorrect.

The mass-appraisal techniques developed by the DOR are designed to find the value of real property on the open market. As part of the standard mass appraisal system, the DOR collects realty transfer certificates (RTC) on all sales that occur prior to the valuation date. In this case, the DOR used a market approach based on five verified comparable sales in the Great Falls area. This model indicated a value of \$106,000 for the subject property. (*See* EP 10 & 11.) The comparable properties used by the DOR were sales of condominiums ranging from November 2006 to February 2008 and were time adjusted to the

July 2008 assessment date. (*See* EP 11.) Of the five comparables, four of them were located in the same building as the subject property, making those comparable sales particularly relevant to setting the sale price of the subject property. We find the DOR's sales to be comparable to the subject property, and relevant and reliable evidence of market value for the subject property.

The Taxpayer argues he should not be assessed any more than what he paid for the property and supplied letters from neighbors stating they thought this price was a fair value in the present market. The Board, however, finds the evidence presented by the Taxpayer to be of little relevance in valuing the subject property. First, the Board is prohibited from considering evidence of value after the lien date of July 1, 2008. Second, the sale of the subject property does not meet the definition of market value when the evidence demonstrated the property was not sold on the open market; rather the buyer approached the seller to purchase directly. (See FOF 5.) The Taxpayer was not able to demonstrate that the comparable sales used by the DOR did not represent an accurate value. There is no indication the Department's valuation suffers from any errors or is miscalculated in any manner. We find the DOR appraiser to be credible and the evidence presented is sufficient to show accurate valuation for the valuation date of July 1, 2008. The Taxpayer has failed to meet his burden to show the DOR has erred.

Therefore, the Board upholds the CTAB decision.

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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 Cascade County by the local Department of Revenue at a value of \$106,000, as determined by the Department of Revenue and affirmed by the Cascade County Tax Appeal Board.

Dated this 28th of February, 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 this Order.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 1st day of March, 2011, a copy of the foregoing order was served on the parties hereto by placing a copy in the U.S. Mail and addressed as follows:

Jerry Meinhardt	_____ U.S. Mail, Postage Prepaid
2816 3 <sup>rd</sup> Ave. N.	_____ Interoffice
Great Falls, MT 59401-2954	_____ Hand delivered

Michele Crepeau	_____ U.S. Mail, Postage Prepaid
Tax Counsel	_____ Interoffice
Office of Legal Affairs	_____ Hand delivered
Department of Revenue	
PO Box 7701	
Helena, MT 59604-6601	

Joan Vining	_____ U.S. Mail, Postage Prepaid
Cascade County Appraisal Office	_____ Interoffice
300 Central Ave.	_____ Hand delivered
Great Falls, MT 59401	

Jan Fulbright, Secretary	_____ U.S. Mail, Postage Prepaid
Courthouse Annex	_____ Interoffice
Cascade County Tax Appeal Board	_____ Hand delivered
Great Falls, MT 59401	

/s/ \_\_\_\_\_  
DONNA J. EUBANK, paralegal assistant