

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

RON TRIPPET,)	
)	DOCKET NO.: PT-2009-175
)	
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

Ron Trippet (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 255 Oldenburg Road, Somers, Montana. The Taxpayer argued the DOR overvalued the property for tax purposes, and seeks a reduction in value assigned by the DOR. The matter was heard before the State Tax Appeal Board on the record, without objection from the parties.

The Board having fully considered the testimony and exhibits from the record made before the Flathead County Tax Appeal Board, and all matters presented to this Board, finds and concludes that:

Issue

The issue before this Board is whether the Department of Revenue valued the subject property appropriately for tax purposes for tax year 2009.

Summary

Based on a preponderance of the evidence, the Board affirms the decision of the Flathead County Tax Appeal Board.

Evidence Presented

1. Due, proper and sufficient notice was given of this matter. All parties were afforded opportunity to present documentary evidence and the case was heard on the record, with no objection from the parties or further evidence or arguments.
2. Ron Trippet is the Taxpayer in this proceeding and, therefore, has the burden of proof.
3. The subject property, which fronts on the Flathead River, has the following legal description:

Tract 14A in Lot 1, consisting of 4.17 acres in Section 23, Township 27 North, Range 20 West, City of Somers, Flathead County, State of Montana, and the improvements located thereon. (DOR Exh. A, pp. 1-3.)
4. The Taxpayer, Ron Trippet, appeared on his own behalf at the Flathead CTAB hearing. (CTAB Transcript, Appeal Form.)
5. The DOR was represented at the CTAB hearing by Appraiser Carolyn Carman. (CTAB Transcript.)
6. For tax year 2009, the DOR valued the subject land at \$602,480 and the subject improvements at \$116,420 for a total value of \$718,900. (Appeal Form.)
7. The Taxpayer filed a Request for Informal Review (AB-26) on September 24, 2009 because of the increase from the 2002 appraised value. (Appeal Form, DOR CTAB Exh. A, pgs. 8-9.)
8. The DOR's response to the AB-26 Request for Informal Review, dated August 18, 2011, reduced the property value from \$718,900 to \$463,268,

- reducing the land to \$388,640 and the buildings to \$74,628. (DOR CTAB Exh. A, p. 8.)
9. The Taxpayer filed an appeal with the Flathead County Tax Appeal Board (CTAB) on September 6, 2011, stating "Value still too high after second approach by Dept. of Rev. Next door neighbor sale not being used" as the reason for appeal and requesting a land value of \$185,092 and an improvement value of \$39,170. (Appeal Form.)
 10. The Flathead CTAB heard the appeal on May 10, 2012.
 11. At the hearing, Mr. Trippet complained about the front foot method of valuation and argued for continued valuation on the basis of acreage. He also testified that his waterfront was steep in places. (Trippet Testimony, CTAB Transcript, p. 12.)
 12. Mr. Trippet referred to a neighbor who sold his land for about \$600,000. The purchaser has subdivided the land and the lots are now offered for sale at "astronomical prices" of \$1.2 million. Taxpayer testified that he used the \$600,000 price in arriving at his requested value of \$224,262 for the land and buildings. (Trippet Testimony, CTAB Transcript, pgs. 7-8.)
 13. Taxpayer also testified that he has appealed to the DOR to combine this property with several other small properties he owns and consider them agricultural. That decision by the DOR is still pending. (Trippet Testimony, CTAB Transcript, p. 9.)
 14. DOR appraiser Carman explained that the 2009 valuation was done on the basis of front footage, rather than the value per acre that had been used in prior valuations. In the informal review she treated 410 of the 820 front feet as front feet and the remaining 410 front feet were valued as residual land. She explained that this was done because his property has "excess frontage." (Carman Testimony, CTAB Transcript, pgs.14-16.)

15. The DOR appraiser testified that the state was converting its method of valuing all waterfront property from prices based on acreage to prices based on front footage. (Carman Testimony, CTAB Transcript, p. 15.)
16. Appraiser Carman presented four comparable properties, each quite close to the subject property, with average front-foot values that ranged from \$2,196 to \$9,700. The subject property, after the AB-26 adjustment, is valued at \$473.95 per front foot. (DOR CTAB Exh. B.)
17. The Flathead CTAB upheld the DOR's land and improvement value in a decision dated May 10, 2012. (Appeal Form.)
18. The Taxpayer appealed to this Board on May 12, 2012, stating "Value on land too high." (Appeal Form.)

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.)

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 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).

In this case, the Taxpayer presented no evidence to the CTAB or to this Board challenging the DOR appraisal. His property, like many waterfront properties, saw a substantial increase in value when the method of valuation changed to acknowledge the increased value of waterfront property, and Mr. Trippet, like many of his neighbors, complained. The DOR is charged with valuing each property at fair market value and their land-sales data shows that the real estate market values waterfront property by its linear feet of waterfront. According to the nearby validated sales of comparable property, the subject property is appraised at a fraction of the average front-foot prices in his vicinity. Mr. Trippet's reliance on an undocumented and undated sale by a neighbor is not persuasive in light of the market value of nearby properties presented by the DOR with much higher values.

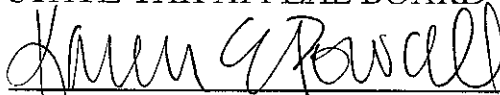
Thus it is the opinion of this Board that the assessed value set by the DOR is affirmed.

Order

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject land value shall be entered on the tax rolls of Flathead County at a 2009 tax year value of \$388,635 for the land and \$74,628 for the improvements as determined by the Department of Revenue and affirmed by the Flathead County Tax Appeal Board.

Dated this 6th day of September, 2012.

BY ORDER OF THE
STATE TAX APPEAL BOARD



KAREN E. POWELL, Chairwoman

(SEAL)



SAMANTHA SANCHEZ, Member



KELLY FLAHERTY-SETTLE, 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 6th day of September, 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:

Ron Trippet
P.O. Box 32
Kalispell, Montana 59903

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

Carolyn Carman
Flathead County Appraisal Office
100 Financial Drive, Suite 210
Kalispell, Montana 59901

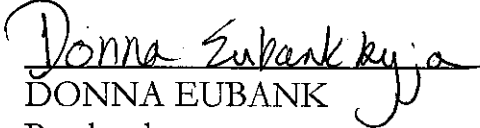
U.S. Mail, Postage Prepaid
 Hand Delivered
 E-mail
 Interoffice

Amanda Myers
Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

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

Danene Thornton, Secretary
Flathead County Tax Appeal Board
800 South Main
Kalispell, Montana 59901

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


DONNA EUBANK
Paralegal