

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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CBA, LLC.	)	
	)	DOCKET NO.: PT-2009-28 and
Appellant,	)	PT-2009-31
-vs-	)	
DEPARTMENT OF REVENUE OF THE STATE OF MONTANA,	)	FACTUAL BACKGROUND,
	)	CONCLUSIONS OF LAW,
Respondent.	)	ORDER and OPPORTUNITY
	)	FOR JUDICIAL REVIEW

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CBA, a Limited Liability Corporation, (Taxpayer) appealed two decisions of the Cascade County Tax Appeal Board (CTAB) affirming the valuation of the Department of Revenue (DOR) on two parcels of vacant land owned by the corporation. Those appeals are here combined for consideration. The first parcel is Lots 1 and 2, Block 1, Braden Tracts, City of Vaughn, containing 14,418 sq. ft. in Section 29, Township 21 North, Range 1 East. The second parcel is comprised of six lots: Lots 1-4, Block 3, Braden Tracts, Section 29, Township 21 North, Range 1 East, and also Marks 16 A and 17A NWSE, containing 72,135 sq. ft. Taxpayer claims the DOR has overvalued his property and seeks a reduction in the value assigned. A hearing was held before this Board on May 14, 2010 in Helena. Taxpayer was represented by Richard Shannon and the DOR was represented by Michele Crepeau, Tax Counsel, and Joan Vining, Area Manager, who testified as to the valuation.

The duty of this Board is to determine the appropriate market value for the properties based on a preponderance of the evidence provided in the

appeal process. The Board, having fully considered the exhibits and submissions and all matters presented to it, finds and concludes the following:

### **Issue**

The issue before this Board is whether the DOR erred in valuing the two parcels of vacant land owned by the Taxpayer.

### **Summary**

This Board concludes, based on a preponderance of the evidence, that the DOR's values for both parcels of land are correct.

### **Findings of Fact**

1. Due, proper, and sufficient notice was given of this matter, of the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.
2. Taxpayer owns two parcels of land, the first parcel initially valued by the DOR at \$13,556 and the second valued by the DOR at \$37,797.
3. Taxpayer appealed those values to the CTAB on January 22, 2010, stating "Value is much more than I paid. Boarders (*sic*) Highway with noise: Assesor (*sic*) wold (*sic*) not adjust any amount: wouldn't tell the boarders (*sic*) of area (of similar land)" and asking for a value of \$10,000 on the first parcel.
4. Taxpayer's appeal asked for a value of \$25,000 on the second parcel stating "Value is much more than I pd, & more than valued last year. Property noisy (*sic*) from Highway: I can get 5 acres for the price they want for this 1.05 acres. Value of property is only averaged by highest values. And median or low value (*sic*) are not included in average price."

5. The DOR reduced the second parcel to \$30,237 but kept the value of the first parcel at \$13,556. Taxpayer appealed to the Cascade County Tax Appeal Board which heard both appeals on February 16, 2010 and upheld the DOR valuation.
6. Taxpayer filed a timely appeal with this Board on March 12, 2010.
7. As the Taxpayer is a corporation, notification was sent that the Montana Supreme Court has required corporations be represented by legal counsel in matters before the Courts. The Board's letter further advised Taxpayer that legal counsel, while advisable, was not required in property tax hearings before the Board with Taxpayer's informed consent. (Board Letter of March 24, 2010.)
8. Rick Shannon, as the president of the Taxpayer Corporation, consented to waive legal counsel and appear on behalf of the corporation. (Transcript)
9. Before the Board hearing, the DOR reduced the value of the first parcel to \$10,000, the same amount the Taxpayer had requested. The first parcel was, therefore, removed from consideration at the hearing.
10. Taxpayer submitted copies of advertisements for property for sale ranging from three to five acres in Great Falls in January of 2010 for prices ranging from \$27,000 to \$39,900. (Exh. A.)
11. Joan Vining, Area Manager for the DOR, submitted sales data for 21 vacant property sales in the same neighborhood as Taxpayer's property (Neighborhood 381) which was time-trended to the appraisal date of July 1, 2008. (DOR Exh. E.)

12. The CALP (computer assisted land pricing) derived from these sales established a base rate, per square foot, of \$1.17 for the first 10,000 square feet and \$0.42 for each residual square foot above that size. Applying that rate to the Taxpayer's property produced the DOR's initial values. (DOR Exh. E.)
13. Vining also testified the \$30,237 which the DOR argued for during the CTAB hearing was due to an error on their part in preparing the materials for the hearing. She testified the \$30,237 was below market value.
14. Taxpayer argued that the land fronted on a busy road and the noise of the road should lower the valuation of the lots.
15. Vining testified several of the lots in the CALP were facing the frontage road and did not sell for lower prices.
16. Taxpayer argued the assessed values were far more than he had paid for the property but admitted that he got a good price. Several of the lots were purchased from a trust.

### **Conclusions of Law**

The State Tax Appeal Board has jurisdiction over this matter. (§15-2-301, MCA). The Board determines whether the Department has set the proper market value for the subject properties. 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). In addition, all taxable property must be assessed at 100% of its market value except as otherwise provided. (§15-8-111, MCA).

The Board concludes the values agreed to by the DOR are already below the market value of the property and result from efforts by the DOR to avoid further costly and time-consuming litigation with the Taxpayer. Regrettably, this was not part of a negotiated settlement and so the Taxpayer got the reduced valuations and was free to continue litigating. The evidence submitted by Taxpayer is from different neighborhoods and a different time-frame than those which must be used to calculate an equitable assessment and, therefore, cannot override the evidence submitted by the DOR and the expert testimony of its appraisers. The values set by the DOR are affirmed.

**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 \$30,000 for the subject six lots: Lots 1-4, Block 3, Braden Tracts, Section 29, Township 21 North, Range 1 East, and also Marks 16 A and 17A NWSE, as determined by the Department of Revenue and affirmed by the Cascade County Tax Appeal Board.

Dated this 19<sup>th</sup> of May, 2010.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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

KAREN E. POWELL, Chairwoman

/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 19th day of May, 2010, 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:

Rick Shannon  
3116 First Avenue South  
Great Falls, Montana 59401

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

Joan Vining  
Cascade County Appraiser Office  
300 Central Avenue  
Suite 620  
Great Falls, Montana 59401

U.S. Mail, Postage Prepaid  
 Hand Delivered  
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 Interoffice

Michele Crepeau (Interoffice)  
Office of Legal Affairs  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

Cascade County Tax Appeal Board  
(U.S. Mail, Postage Prepaid)  
Courthouse Annex  
Great Falls, Montana 59401

/s/  
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DONNA J. EUBANK, paralegal

