

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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COLSTRIP PROPERTIES, INC.,	)	
	)	DOCKET NOS.: PT-2003-24
	)	THRU PT-2003-34
Appellant,	)	
	)	
-vs.-	)	FACTUAL BACKGROUND,
	)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE	)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,	)	<u>FOR JUDICIAL REVIEW</u>
	)	
Respondent.	)	

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The above-entitled appeal was heard on February 18, 2004, in the City of Forsyth, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law.

Richard Burnett (the Taxpayer) presented testimony in support of the appeal. The Department of Revenue (the DOR), represented by Richard Sparks, Appraiser, presented testimony in opposition to the appeal.

The State of Montana defines "market value" as **MCA §15-8-111. Assessment - market value standard - exceptions.** (1)  
*All taxable property must be assessed at 100% of its market*

*value except as otherwise provided. (2)(a) Market value is a 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 a reasonable knowledge of relevant facts.*

The Taxpayer is the Appellant in this proceeding and therefore has the burden of proof. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that 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. **(Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967).**

The duty of the Board is to determine the market value of the Taxpayer's property based on the preponderance of the evidence. Based on the evidence and testimony presented, the market values are the values as established by the DOR. The decision of the Rosebud County Tax Appeal Board is affirmed.

**STATEMENT OF THE ISSUE**

The Taxpayer contends that the DOR's 2003 market value determination is excessive. The Rosebud County Tax Appeal board denied any reduction in value and, therefore, the Taxpayer appealed to this Board.

**FACTUAL BACKGROUND**

1. Due, proper and sufficient notice was given of this matter, the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The Board has jurisdiction over this matter in accordance with **§ 15-2-301 MCA**.

3. The property which is the subject of this appeal is described and valued by the DOR and Taxpayer as follows:

PT-2003-24			DOR	TP	CTAB
11 mobile hookups	Land	1.78	\$5,812	\$2,500	\$5,812
L001	Imp	11	\$15,500	\$7,500	\$15,500
B34	Total		\$21,312	\$10,000	\$21,312

PT-2003-25			DOR	TP	CTAB
8 mobile hookups	Land	1.17	\$3,820	\$5,000	\$3,820
L001	Imp	8	\$11,300	\$6,000	\$11,300
B35	Total		\$15,120	\$11,000	\$15,120

PT-2003-26			DOR	TP	CTAB
14 mobile hookups	Land	2.62	\$8,554	\$4,000	\$8,554
L001	Imp	14	\$19,800	\$8,000	\$19,800
B36	Total		\$28,354	\$12,000	\$28,354

PT-2003-27			DOR	TP	CTAB
19 mobile hookups	Land	4.19	\$13,680	\$7,000	\$13,680
L001	Imp	23	\$32,700	\$15,000	\$32,700
B37	Total		\$46,380	\$22,000	\$46,380
PT-2003-28			DOR	TP	CTAB
22 mobile hookups	Land	3.65	\$11,917	\$6,000	\$11,917
L001	Imp	22	\$31,100	\$5,000	\$31,100
B38	Total		\$43,017	\$11,000	\$43,017
PT-2003-29			DOR	TP	CTAB
5 mobile hookups	Land	1.1	\$3,592	\$2,000	\$3,592
L001	Imp	5	\$7,100	\$4,000	\$7,100
B39	Total		\$10,692	\$6,000	\$10,692
PT-2003-30			DOR	TP	CTAB
4 mobile hookups	Land	0.81	\$2,645	\$2,000	\$2,645
L001	Imp	4	\$5,600	\$4,000	\$5,600
B41	Total		\$8,245	\$6,000	\$8,245
PT-2003-31			DOR	TP	CTAB
7 mobile hookups	Land	0.92	\$3,004	\$1,500	\$3,004
L001	Imp	7	\$9,900	\$5,000	\$9,900
B42	Total		\$12,904	\$6,500	\$12,904
PT-2003-32			DOR	TP	CTAB
12 mobile hookups	Land	2.04	\$6,661	\$4,000	\$6,661
L001	Imp	12	\$22,600	\$14,000	\$22,600
B43	Total		\$29,261	\$18,000	\$29,261
PT-2003-33			DOR	TP	CTAB
10 mobile hookups	Land	1.24	\$4,049	\$2,000	\$4,049
L001	Imp	10	\$14,100	\$9,000	\$14,100
B44	Total		\$18,149	\$11,000	\$18,149
PT-2003-34			DOR	TP	CTAB
7 mobile hookups	Land	2.48	\$8,097	\$5,000	\$8,097
L001	Imp	7	\$9,900	\$6,000	\$9,900
B45	Total		\$17,997	\$11,000	\$17,997
Total Land Area (acres)		<b>22.00</b>	<b>\$71,831</b>	<b>\$41,000</b>	<b>\$71,831</b>
Total Imps (# of spaces)		<b>123</b>	<b>\$179,600</b>	<b>\$83,500</b>	<b>\$179,600</b>
Total Value			<b>\$251,431</b>	<b>\$124,500</b>	<b>\$251,431</b>

4. The Taxpayer appealed the DOR's value determination for the property to the Rosebud County Tax Appeal Board (County Board), requesting the value be reduced as noted above.

5. In the December 8, 2003 decisions, the County Board denied the Taxpayer's appeals.

6. The Taxpayer appealed the County Board's decisions to this Board on December 16, 2003.

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#### **TAXPAYER'S CONTENTIONS**

The Taxpayer requested the Board take notice of a previous decision, ***PT-1999-45, Colstrip Properties, Inc.*** In that decision, the Board set the value for the property at \$207,300, as established in an independent fee appraisal. Mr. Burnett testified that nothing physically has changed with the property since this Board's previous decision. In addition, Mr. Burnett indicated that the economy of Colstrip has worsened, as indicated by the number of business closures and jobs lost. There is nothing to warrant an increase in value for the subject property as of the Board's prior decision.

Mr. Burnett requested this Board revert the value back to \$207,300, pursuant to *PT-1999-45, Colstrip Properties, Inc.*

DOR'S CONTENTIONS

The DOR is mandated by statute to reappraise property statewide, **§15-7-111 Periodic revaluation of certain taxable property (2001)**. The DOR's reappraised values for the various lots and improvements are listed above and illustrated on Exhibit A.

The DOR testified that cost approach and income approach were utilized to arrive at values for the subject properties. The property record cards (Exhibit A) indicate a total of 123 mobile home spaces. The cost approach resulted in a value for the land at \$71,831 and improvements at \$179,600, for a total value of \$251,431. The income approach resulted in a value of \$7,159 per mobile home space for a total value of \$880,557 (123 X \$7,159) as noted on Exhibit B.

The DOR testified the cost approach was relied upon in establishing value. The DOR utilized the Marshall & Swift cost manual, a national cost guide. The subject was appraised as a low cost mobile home park. The DOR also adjusted the cost value with a local index multiplier of 78% and an

economic condition factor of 74%. It is the appraiser's opinion that these multipliers take into account the current economy of Colstrip.

#### **BOARD'S DISCUSSION**

For tax year 1999, this Board did set the value of the subject property at a value of \$207,300 per an independent fee appraisal pursuant to an appeal filed by the taxpayer (***PT-1999-45, Colstrip Properties, Inc***). **MCA, §15-7-102 (6)** and **ARM 42.20.455**, both provide the consideration of an independent fee appraisal as a determinant of market value. That appraisal was done for loan purposes at the time the taxpayer purchased the property. The date of value reflected in that appraisal report was December 21, 1999. The DOR's current value determination is as of January 1, 2003.

**§15-7-111. Periodic revaluation of certain taxable property (2001).** (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten.

3) Beginning January 1, 2001, the department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, 2003, and each succeeding 6 years (emphasis added).

The taxpayer testified that the mobile home park consists of 132 rental spaces. For the subject mobile home park, the

DOR identified and valued 130 rental spaces. The DOR's property record cards for the 11 separate lots appealed indicates 123 rental spaces. The DOR indicated that the taxpayer did not appeal Lot 40, which would account for the remaining 7 rental spaces.

The DOR requested income and expense data from the taxpayer in an attempt to value the property by means of an income approach to value. The data was never provided. The taxpayer testified he owns various commercial properties, apartments, restaurants, motel, along with the subject, and the income and expense data is not separated out for each, and that was the reason it was not provided.

The taxpayer testified that, of the 132 mobile home spaces, approximately 30 are vacant, or 23%. The current monthly rental rate for a mobile home pad is \$105. At the time the property was purchased, the monthly rental rate was \$85. This suggests an increase in rent of \$20 per month or 24%. In addition, the taxpayer testified the vacancy rate has decreased slightly from the date of purchase.

In 1999, this Board set the value of the subject property at \$207,300. Based on 130 rental spaces, the price



per unit was \$1,595, inclusive of the land (\$207,300/123). The DOR's reappraised value for the 123 rental spaces under appeal reflects a value of \$2,044 per unit (\$251,431/123). This new value suggests an increase of 28%. The Taxpayer is asking this Board to reduce the per unit value to \$1,012. The Taxpayer has provided no compelling evidence to suggest that the value has declined. Based on the increased rents and declining vacancy, there is more support for the DOR's value determination.

Based upon the record, the best indication of market value for the subject property for tax year 2003 is as follows:

<b>PT-2003-24</b>	Land	\$5,812	<b>PT-2003-28</b>	Land	\$11,917	<b>PT-2003-32</b>	Land	\$6,661
L001	Imp	<u>\$15,500</u>	L001	Imp	<u>\$31,100</u>	L001	Imp	<u>\$22,600</u>
B34	Total	\$21,312	B38	Total	\$43,017	B43	Total	\$29,261
<b>PT-2003-25</b>	Land	\$3,820	<b>PT-2003-29</b>	Land	\$3,592	<b>PT-2003-33</b>	Land	\$4,049
L001	Imp	<u>\$11,300</u>	L001	Imp	<u>\$7,100</u>	L001	Imp	<u>\$14,100</u>
B35	Total	\$15,120	B39	Total	\$10,692	B44	Total	\$18,149
<b>PT-2003-26</b>	Land	\$8,554	<b>PT-2003-30</b>	Land	\$2,645	<b>PT-2003-34</b>	Land	\$8,097
L001	Imp	<u>\$19,800</u>	L001	Imp	<u>\$5,600</u>	L001	Imp	<u>\$9,900</u>
B36	Total	\$28,354	B41	Total	\$8,245	B45	Total	\$17,997
<b>PT-2003-27</b>	Land	\$13,680	<b>PT-2003-31</b>	Land	\$3,004	<b>Total Land</b>		<b>\$71,831</b>
L001	Imp	<u>\$32,700</u>	L001	Imp	\$9,900	<b>Total Improvements</b>		<b>\$179,600</b>
B37	Total	\$46,380	B42	Total	<u>\$12,904</u>	<b>Total Market Value</b>		<b>\$251,431</b>

**CONCLUSIONS OF LAW**

1. The State Tax Appeal Board has jurisdiction over this

matter. **§15-2-301 MCA.**

2. **§15-8-111 MCA. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided

3. **§15-2-301 MCA, Appeal of county tax appeal board decisions.** (4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision.

4. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that 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. (**Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967).**)

5. The Board finds that the evidence presented supports its conclusion that the decision of the Rosebud County Tax Appeal Board is affirmed.

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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 Rosebud County by the local Department of Revenue office at the value of:

<b>PT-2003-24</b>	Land	\$5,812	<b>PT-2003-28</b>	Land	\$11,917	<b>PT-2003-32</b>	Land	\$6,661
L001	Imp	\$15,500	L001	Imp	\$31,100	L001	Imp	\$22,600
B34	Total	\$21,312	B38	Total	\$43,017	B43	Total	\$29,261
<b>PT-2003-25</b>	Land	\$3,820	<b>PT-2003-29</b>	Land	\$3,592	<b>PT-2003-33</b>	Land	\$4,049
L001	Imp	\$11,300	L001	Imp	\$7,100	L001	Imp	\$14,100
B35	Total	\$15,120	B39	Total	\$10,692	B44	Total	\$18,149
<b>PT-2003-26</b>	Land	\$8,554	<b>PT-2003-30</b>	Land	\$2,645	<b>PT-2003-34</b>	Land	\$8,097
L001	Imp	\$19,800	L001	Imp	\$5,600	L001	Imp	\$9,900
B36	Total	\$28,354	B41	Total	\$8,245	B45	Total	\$17,997
<b>PT-2003-27</b>	Land	\$13,680	<b>PT-2003-31</b>	Land	\$3,004			
L001	Imp	\$32,700	L001	Imp	\$9,900			
B37	Total	\$46,380	B42	Total	\$12,904			

Dated this the 10th day of March, 2004.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

\_\_\_\_\_  
GREGORY A. THORNQUIST, Chairman

\_\_\_\_\_  
JEREANN NELSON, Member

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JOE R. ROBERTS, 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 10<sup>h</sup> day of March, 2004, 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:

Richard Burnett  
15 Elm Court  
Colstrip, Montana 59323

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

Richard Sparks  
Department of Revenue  
Rosebud County Courthouse  
Forsyth, Montana 59327

Harlin Steiger  
Route 2, Box 59  
Forsyth, Montana 59327

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DONNA EUBANK  
Paralegal