

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF MONTANA,)	DOCKET NO.: PT 1997-58
Appellant,)	
)	
-vs-)	
)	
CROFT PETROLEUM COMPANY,)	FINDINGS OF FACT,
Respondent.)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on the 3rd day of March, 1998, in the City of Cut Bank, Montana, in accordance with the order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law. The Department of Revenue (DOR), represented by Glacier County appraiser Donald South and Toole County commercial appraiser Kevin Watterud, presented testimony in support of the appeal. The taxpayer, represented by Vice President Danny Murphy, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received, and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits, and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

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

2. The property involved in this appeal is described as follows:

Land only, Lots 27-30 Block A, Lots 8-12 and 15-18 Block B, Lots 1-8 and 12-15 and Special Block C, and Lots 1-27 Block D, Amended Vogt Subdivision, Section 12, Township 33 North, Range 6 West, Cut Bank, State of Montana.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$64,243.

4. The taxpayer appealed this value to the Glacier County Tax Appeal Board requesting a reduction to \$53,000, stating "Glacier Co. appraiser in reappraisal for 1997 has overvalued all of the above lots."

5. In a December 10, 1997 decision, the county board adjusted the value of the property to \$500 per lot, stating:

"Appraised value set by CTAB at \$500 per lot/27 lots. The owner tried to give the lots away, with no sign of interest.

They advertised in the area newspapers at \$500.00 per lot, with no sales. The lots have been listed with the realtors in

the area for several years, with no interest.[] The DOR stated the adjusted CTAB value applied to all 53 lots.

6. On January 8, 1998 the DOR appealed that decision to this Board, stating: []The nature of the proof adduced at the hearing was insufficient, from a factual and a legal standpoint, to support the Board[]s decision.[]

7. At this hearing, the taxpayer confirmed that the taxes on some of the lots were delinquent.

DOR[]s CONTENTIONS

Mr. South presented Realty Transfer Certificate (RTC) information reflecting three property sales during the years 1992 through 1994 as support for the DOR[]s valuation of the subject property.(DOR Ex A) For the three properties sold during this time period, the price per square foot ranged from \$.41 to \$.44. In response to questioning, he acknowledged that the lots represented by the three RTCs in Exhibit A were []trailer-ready,[] improved with sewer, water, gas, electricity, curbs and gutters.

For the lots under appeal, this same exhibit listed the 1996 Values Before Reappraisal (VBR), the DOR 1997 appraised values, the phase-in values, the 1997 values before the AB-26 adjustments were made, the size of each of the lots,

and the values per square foot after AB-26 adjustments were made, adjustments which resulted in a price per square foot ranging from \$.14 to \$.18. Mr. South stated he had made the adjustments to recognize the presence of oil flow lines, pumps, and the location of the lots, as well as the fact that the lots were not improved (curbs, gutters, utilities, etc.) all of which would affect value.

Mr. South testified that: "...it is our understanding that these lots were purchased in the first place to keep anyone else from getting them because of their flow lines on the property....if they were purchased with that intent in mind then I don't see why the value of the lots should be decreased just because they say they can't sell them now."

Mr. South testified that the taxpayer requested, at the county hearing, \$1,000 a lot, the value established in the prior appraisal cycle. He stated that, even though the real estate market in Cut Bank had declined, he did not believe a \$500 value for each of the lots was fair and equitable. He also noted that the county board established a uniform value for each of the lots, even though the lots differed in size.

TAXPAYER'S CONTENTIONS

Mr. Murphy testified that Croft Petroleum originally purchased 13 lots to serve as a buffer between the petroleum operation and adjacent residential development. When the adjacent land was subdivided, he stated no consideration was given to the location of the taxpayer's flow lines, and the taxpayer decided to purchase the remainder of the lots that were for sale. Some of these lots were purchased with intention of selling them. All the lots are located in the city. Most of the roads on the map shown to the Board do not exist, and the land is basically raw land.

Mr. Murphy stated the taxpayer had offered for sale all of the subject lots for \$500 each, except for those with flow lines beneath and power lines overhead. This effort was made in 1993 through region newspapers and realtors and resulted in few enquiries and no sales.

In April, 1994, the taxpayer sold two lots, 13 and 14 of Block B. These were the only lots in close proximity to sewer and water and the sale price was \$500 for each lot. In July of 1996, the taxpayer sold a lot for \$1,000 to the owner of the adjacent property.

In August, 1996, the taxpayer signed a buy/sell agreement with the Glacier County Jail Committee to buy 27 lots

for \$12,000 plus taxes owing. This sale was not completed as it was not approved by the voters. More recently, the Jaycees, owners of lot 2 in Block B, had an agreement to sell that lot for \$300, but that sale has not been completed.

Mr. Murphy stated that, since none of the subject lots have sewer, water, or electricity to them, they are almost worthless because of the cost of accessing those improvements.

In summary he stated, "In support of the value that the Glacier County Tax Appeal Board put on those lots, there is no history and there are no lots that have been sold that are like these lots for anything greater than \$500."

DISCUSSION

The issue before this Board is whether or not the value of \$500 per lot determined by the Glacier County Tax Appeal Board is the fair market value of the subject lots.

The DOR presented RTC information for three sales and testimony contending these sales provided support for the values the DOR assigned to the subject property. The DOR failed to provide evidence that the lots which were sold were comparable to the subject property. The lots which sold were improved, with utilities, curbs and gutters; and the lots comprising the subject property are unimproved, and for the

most part did not even have road access.

Mr. South contends he made reductions in the land values to recognize the subject property was unimproved and to recognize there were impediments such as flow lines and pumps. There was, however, no testimony nor evidence provided that explained the methods by which the adjustments were calculated.

The Board can only conclude, then, that the adjustments were arbitrary and were across the board, irrespective of whether or not a particular lot had, for example, flow lines within its boundaries or a pump operating within its borders.

The value of the subject property before reappraisal was determined by this Board in August of 1994, PT-1993-653.

There was no disagreement between the parties at this hearing that, since that time, the Cut Bank real estate market has declined.

The examples provided by the taxpayer lend credence to the contention that the county tax appeal board determination of value was fair. In the opinion of this Board, the DOR did not provide substantiation for the return to the prior cycle value of \$1,000 per lot which it requested at this hearing and, therefore, did not meet its burden on appeal.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. [15-2-301 MCA.

2. The appeal of the Department of Revenue is hereby denied and the decision of the Glacier 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 decision of the Glacier County Tax Appeal Board is affirmed and, for the 1997 tax year, the subject property shall be valued at \$500 per lot, for a total of \$26,500.

Dated this 8th of April, 1998.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Member

LINDA L. VAUGHEY, 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.

PT-1997-98

Chairman McKelvey dissents as follows:

In general I agree with the decision as written by the majority of the Board as to the facts of this appeal. The appraiser for the DOR was unable to explain in detail the adjustments made to the land value in this case and provide credible support to meet the burden on appeal.

My review of the record however indicates to me that there is also no credible support for a 50% reduction in land value from the prior cycle value of \$1,000 per lot. The facts as presented on appeal at the local level are the same as those presented by the taxpayer in the prior cycle appeal, except for the sale in 1996 of one of the lots for \$1,000. The other indications of value presented here are either not actual transactions, or are unsupported listings, agreements, or unsupported non-completed sales.

The local board decision as stated, refers to a value of "\$500 per lot/27 lots." If it were not for the testimony of the DOR appraiser who stated that the local board decision applied to all 53 lots in this appeal it would be difficult to verify that is in fact the decision they made.

Finally, the taxpayer in filling out the appeal form stated the value as "determined by the taxpayer" is "\$53,000". That is \$1,000 per lot as established in the prior cycle.

I would grant the appeal of the DOR and return the value to \$1,000.

PATRICK E. MCKELVEY, Chairman
April 8, 1998

