

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF MONTANA,)	
)	DOCKET NO.: PT-1997-124
Appellant,)	
)	
-vs-)	
)	FINDINGS OF FACT,
JERRY M. FERDA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondents.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on the 20th day of April in the City of Helena, 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 given as required by law. The Department of Revenue (DOR), represented by appraiser Terry Swope, presented testimony in support of the appeal. A letter from the respondent was submitted, authorizing Harold and Elizabeth Forney to represent him at this hearing; and they did so, presenting testimony in opposition to the appeal. Testimony was presented, exhibits were received, a post-hearing schedule was determined, a post-hearing submission was received, and the Board then took the cause under advisement; and the Board having fully considered

the testimony, exhibits and all things and matters presented to it, finds and concludes as follows:

FINDINGS OF FACT

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 respondent leases the property that is the subject of this appeal from the Department of Natural Resources (DNRC); and the property is described as follows:

Land only, one acre in Section 16, Township 14 North, Range 9 West, Lewis and Clark County, State of Montana.

3. The subject property is leased by the respondent under State Land Lease #3060567. The conditions of the lease require a five year review, at which time an annual rental is set in accordance with the appraised market value as determined by the DOR. The annual rental is calculated at 3.5% of the appraised value or \$250.00, whichever is greater.

4. The 1998 rental for the subject property is determined based upon the 1997 appraised market value. The DOR appraised the subject property at a value of \$14,600.

5. On December 12, 1997, the respondent appealed

that value to the Lewis and Clark County Tax Appeal Board requesting a value of \$5,000 stating:

Like property in the Lincoln Springs subdivision, adjacent to this state land, sold by Myron Hatch, sold for \$4,800 an acre within the last 9 months or less. This is only accessible 6 months out of the year. I request an appointment to show this property in person.

6. In an undated decision, the county board granted the appeal, stating: "Taxpayers demonstrated \$5,000 per acre is equitable price for State Leased land."

7. The Department of Revenue appealed that decision to this Board on March 25, 1998, 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."

8. It was agreed by all parties that testimony and evidence presented in PT 1997-125, Department of Revenue vs Harold and Elizabeth Forney, pertained to the matter before this Board.

9. This Board has jurisdiction over this matter in accordance with "77-1-208(1) MCA.

DOR'S CONTENTIONS

The DOR testified that "77-1-208, MCA authorizes the department to establish values on state leased land. The statute states, in relevant part:

Cabin site licenses and leases -- method of establishing value. (1) The board shall set the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain full market value based on appraisal of the cabin site value as determined by the department of revenue.The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111 without any adjustments as a result of phasing in values.... (emphasis applied)

The DOR submitted its procedure for implementation of this statute (DOR Ex B) and it states, in part:

The annual fee for Department of State Lands cabin site leases is based on the full market value as determined by the Department of Revenue (77-1-208, MCA). This procedure defines the method for supplying information on market values of cabin sites to the Department of State Lands.

....The appraiser is responsible for determining a value for cabin sites for each appraisal cycle. The valuation of adjacent land parcels should serve as the basis for valuation of the cabin site acreage.

The DOR submitted a map (DOR Ex C) that showed three [neighborhoods] utilized by the department in determining land values in the area of the subject property. The neighborhoods were identified as: the Lincoln Area, West Lincoln, and the Lincoln Springs subdivision. The DOR submitted a second map (DOR Ex E) that illustrated the locations of eight sales from which a Computer Assisted Land Pricing (CALP) model was developed.

The DOR submitted CALP models for the three aforementioned neighborhoods. (DOR Ex F, G, H) The DOR interpreted the exhibits to the extent of explaining the [base rate] figures and [adj. rate] figures and resultant

calculations of land values.

CALP Model	Base Size	Base Rate*	Adjusted Rate**
Lincoln Area	4 acres	\$14,600	\$1,800
West Lincoln	1 acre	\$14,600	\$4,700
Lincoln Springs	4 acres	\$16,400	\$1,200

* Base Rate: value placed on first acre

**Adjusted Rate: value placed on each additional acre

The DOR explained the premise used to separate the first acre for valuation purposes: it is to value the first acre higher than the remaining land in a parcel, as one acre is the minimum standard usually needed for development for septic systems, etc. and the excess land is less valuable. Using the figures illustrated in the table above, a five acre parcel in the West Lincoln area would be valued at \$14,600 for the first acre, \$1,800 for each of the additional four acres, for a total value of $\$14,600 + (\$1,800 \times 4) = \$21,800$.

There were two models in the area of the subject property with a base rate of \$14,600 per acre and one model with \$16,400 per acre. The DOR utilized a \$14,600 base rate to value the subject property.

TAXPAYERS' CONTENTIONS

Along with the letter authorizing their representation of the respondent, Mr. and Mrs. Forney submitted a notarized statement prepared by Mr. Ferda:

I have several concerns about the appraisal of the cabin site that I lease from the state. I feel the appraisal is high when surrounding properties are selling for less per acre than the appraised value.

Also, as the state road is not plowed or maintained during winter months, this makes the property seasonal recreational property. Last, on the property at the present time, is a 1960 10x50 mobile home with no utilities or services.

Thank you for your consideration for reviewing a possible reduction.

Mr. and Mrs. Forney submitted a map of the Lincoln Springs Subdivision (TP Ex 3) that is adjacent to the subject property. Identified on the map was the location of a land sale of which they were aware, and about which Mrs. Forney stated, "....the 9.4 acres (that) was sold for \$5,000 or less per acre. I was using this land (for comparison) because that was the only land that I knew in what I considered our immediate area would be the Lincoln Springs development....the only residential or area that we felt was comparable to our lease sites was this 9.4 acres." Mr. and Mrs. Forney believed the sale took place in 1997.

Mr. and Mrs. Forney submitted a copy of a page from the Summer 1996 Montana Land Magazine that listed properties

for sale by the Dallas Land Co.(TP Ex 4) In this publication, a 9.4 acre parcel was offered for sale for \$45,000. Neither Mr. or Mrs. Forney were able to testify as to the actual sales price; Mrs. Forney testified they had heard through a third party that the property sold for \$3,800 per acre, but they could not verify the sale.

DISCUSSION

The Board was presented with CALP models (DOR Ex F, G, H), one of which was used to determine the land value for the subject property. The Board realizes Mr. Swope is not a statistician, but he offered the Board insufficient explanation for the CALP exhibits; and the post-hearing submission requested and received by the Board was not particularly useful in providing the explanations necessary to understand the significance of various components.

While an explanation was given by Mr. Swope for the [ADJ. (Base) RATE] of each of the CALP models as having originated from the Development Regression Analysis [X Coefficient,] neither his explanations at the hearing nor his post-hearing submission provided the information requested as to the strengths or weaknesses of the various indicators, i.e. Std Err of Coef., Degrees of Freedom, Std Err of Y Est, R

Squared, T-Value, except to say that the latter three [are tests done against the model by the model to determine how accurate it is.] The post-hearing submission which dealt only with the T-Factor (T-Value), stated that the T-Factor was determined by the formula: X Coefficient/Std Err of Coef. A summary paragraph stated:

THE SIGNIFICANCE OF T-STATISTICS CAN BE EVALUATED BY REFERENCE TO A [CRITICAL VALUES OF T] TABLE....IN GENERAL, A T-STATISTIC IN EXCESS OF PLUS OR MINUS 2.00 INDICATES THAT WE CAN HAVE 95 PERCENT CONFIDENCE THAT THE COEFFICIENT IS SIGNIFICANT IN PREDICTING THE SALE PRICE.

There were no other explanations provided; and this Board, therefore, along with the respondent is left in the dark as to the denotations and interpretations of the various components of the CALP models. An understanding of the value of the numbers attached to each of the components of the analyses contained within each of the CALP models would be useful, as well, when comparing each of the three models with the other two.

Mr. and Mrs. Forney were unable to provide the Board with evidence to support Mr. Ferda's request for value. Having no substantive evidence that would definitively challenge the values produced by CALP, this Board is obliged to rely upon the results of a CALP model to the extent of the establishment of

the Base Rate and Adjustment Rate. The Board, therefore, must then draw upon the CALP model for the Lincoln Area (DOR Ex F), the model that was used by the DOR to value the subject property.

CONCLUSIONS OF LAW

1. The DOR performed the subject appraisal in accordance with §77-1-208 and §15-7-111, MCA.

2. The Board takes administrative notice of PT 1997-125, Department of Revenue vs Harold and Elizabeth Forney.

3. The appeal of the Department of Revenue is hereby granted and the decision of the Lewis and Clark County Tax Appeal Board is reversed.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject land shall be entered on the tax rolls of Lewis and Clark County by the County Assessor at the 1997 tax year value of \$14,600.

Dated this 29th of May, 1998.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. MCKELVEY, Chairman

(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.