

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

-----

THE DEPARTMENT OF REVENUE	)	
OF THE STATE OF MONTANA,	)	
	)	DOCKET NO.: PT-1996-28
Appellant,	)	
	)	
-vs-	)	
	)	
ROSE HEDRICK,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent.	)	ORDER AND OPPORTUNITY
	)	<u>FOR JUDICIAL REVIEW</u>

-----

The above-entitled appeal was heard on the 4th day of June, 1998, in the City of Great Falls, 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 Peter Fontana and Richard Dempsey, appraisers, presented testimony in support of the appeal. The taxpayer was represented by Shannon Wadsworth, agent for the taxpayer, and 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:

Lots 5 & 6, Block 359, Great Falls Original Townsite and improvements located thereon, Cascade County, State of Montana (GEO CODE 02-3015-12-1-17-11-000).

3. For the 1996 tax year, the DOR appraised the subject property at a value of \$62,500 for the land and \$240,400 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board. The form was not dated by the taxpayer, but it was date-stamped by the county board on November 20, 1996. The taxpayer stated the reason for appeal:

(1) I never received an assessment notice notifying me of a value change. I just received an increased property tax bill. (2) My property is overvalued compared to similar properties in the area.

5. The county board adjusted the value on September 17, 1997, stating:

After hearing testimony and reviewing exhibits, the Board increased depreciation to 15% due to existing conditions which surround the building while leaving the paving at \$12,850 for a new total improvement value of \$195,628. The land value remains the same at \$62,500. These values are for the 1996 tax year.

6. On October 15, 1997 the Department of Revenue 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.

### DOR'S CONTENTIONS

Mr. Fontana testified that the subject property was constructed in 1995. The owner was permitted to utilize an existing foundation by the City of Great Falls after an engineering study was completed. (exhibit F) Due to the utilization of the existing foundation, the DOR recognized an effective age of 1989 for a structure constructed in 1995. Based on that effective age, the physical depreciation applied to the structure is 7%. (exhibit I, pg. 3)

The DOR presented the construction cost estimate from the contractor in the amount \$265,000 for the improvements. (exhibit A)

The DOR presented a copy of the lease agreement for the subject property. This contract was entered into on February 21, 1995, between Rose Hedrick (owner) and Re/Max of Great Falls, LLC (tenant). The term of the lease is 5 years with an option to renew. The rent is \$3,750 per month or \$45,000 annually. (Exhibit D)

The DOR presented a copy of a fee appraisal on the subject property performed by Philip L.R. Rowen. (exhibit B)

The date of valuation is February 22, 1995. The letter of

transmittal in summary states:

By reason of this investigation it is my opinion that the Market Value of the subject property, [as if completed], is indicated at:

\$300,000

DOR's exhibit H, is a summary of values for the subject property and illustrates the following:

Department of Revenue Income Value	\$294,600.00
Department of Revenue Cost Value	\$302,900.00
Marshell (sic) & Swift Cost Value	\$304,434.00
Rowen Fee Appraisal Income Value	\$294,451.00
Rowen Fee Appraisal Market Value	\$300,000.00
O'Leary Construction Contract/Land Purchase	\$319,970.20
Average Value of Subject Property	\$303,336.45

Department of Revenue final value estimate for tax year 1996 was derived by the cost approach to value. The cost approach was determined to be the best indicator of value, since the subject property is new and suffers very little depreciation.

**TAXPAYER'S CONTENTIONS**

Mr. Wadsworth's argument was that the subject property is not being fairly treated when compared with similar properties. This argument was presented to the Board by comparing the price per square foot of the subject structure with that of comparable properties. Mr. Wadsworth's argument and exhibits are summarized in the following table:

Property	Exhibit	DOR Building Value	Building Sq. Ft.	Price Per Sq. Ft.
Subject	#2	\$227,550	4,558	\$49.92
Comp #1	#3	\$95,300	5,370	\$17.75

Comp #2	#4	\$111,200	3,000	\$37.07
Comp #3	#5	\$59,175	5,050	\$11.72
Comp #4	#6	\$148,650	5,047	\$29.45
Comp #5	#7	\$160,100	6,300	\$25.42
Comp #6	#8	\$154,200	5,793	\$26.62
Sale - sale price includes land				
Comp #6	#8	\$200,000	5,793	\$34.52

**DISCUSSION**

Mr. Wadsworth's argument on the comparability of the price per square foot between the subject and eight comparables requires further analysis. The value illustrated on exhibit #2 for the subject property was derived from the 1996 property record card for the 1993 to 1996 appraisal cycle. The values for Mr. Wadsworth's comparables were taken from 1997 property record cards for the 1997 to 2007 appraisal cycle. The Board questions the comparability of the comparables selected. A more complete comparison of Mr. Wadsworth's exhibits is illustrated in the following table:

Property	Exhibit	Appraisal Cycle	Year Built	Effective Age	Construction Quality	Depreciation	Price Per Sq. Ft.
Subject	# 2	1993-1996	<b>1995</b>	<b>1989</b>	Average	7%	\$49.92

Comp #1	# 3	1997-2007	<b>1978</b>	<b>1978</b>	Average	21%	\$17.75
Comp #2	# 4	1997-2007	<b>1978</b>	<b>1978</b>	Fair	21%	\$37.07
Comp #3	# 5	1997-2007	<b>1950</b>	<b>1967</b>	Fair +	50% & 42%	\$11.72
Comp #4	# 6	1997-2007	<b>1947</b>	<b>1967</b>	Average	42%	\$29.45
Comp #5	# 7	1997-2007	<b>1986</b>	<b>1988</b>	Average	21%	\$25.42
Comp #6	# 8	1997-2007	<b>1972</b>	<b>1980</b>	Average	29%	\$26.62

Mr. Wadsworth made no adjustments to the value of his comparables so as to make those properties more like the subject property, i.e. age, type of construction, quality on construction, condition, etc.

*The Appraisal of Real Estate, 11th Edition, pg. 418:*

The adjustments derived in comparative analysis and applied to the sale prices of the comparables may be expressed as percentages, as dollar amounts, or in descriptive terms that clearly convey the magnitude of the difference in the element of comparison between the comparable and the subject. Five general steps are involved in the analytic process.

1. Identify the elements of comparison that affect the value of the property being appraised.
2. Compare the attributes of each comparable with those of the subject property and measure the difference in each element of comparison between the comparable and subject. Each quantitative adjustment must be adequately explained to ensure that a third party would understand the reasoning behind the adjustment.
3. Derive a net adjustment for each comparable and apply it to the sale or unit price of the

comparable to arrive at a range of adjusted sale or unit prices for the subject property (A net adjustment is calculated as the difference between total positive and negative adjustments.)

4. Compare all the adjusted comparables and array them according to those that are superior to the subject, those that are similar, and those that are inferior to the subject. This process will result in a bracket of values identifying those comparables that are superior to the subject and those that are inferior to the subject.
5. Perform qualitative analysis to reconcile the range of values to the subject property. (Emphasis added)

The Board has reviewed the Rowen appraisal and has concluded the determination of market value as defined within that appraisal is consistent with the DOR's assignment as defined in 15-8-111, MCA.

Mr. Rowen has analyzed the lease of the subject property and stated:

...In my opinion, the investigation of the rental data of office properties supports the subject lease contract as an indication of current economic rent...

It is the Board's opinion, based on the contractor's construction estimate, the Rowen appraisal and the DOR's appraisal, the DOR has achieved market value as specified in 15-8-111, MCA.

**CONCLUSIONS OF LAW**

1. The State Tax Appeal Board has jurisdiction over this matter. ¶15-2-302 MCA

2. Assessment - market value standard. ¶15-8-111 MCA

//

//

//

//

//

//

//

//

//

//

//

**ORDER**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the decision of the Cascade County Tax Appeal Board is reversed and, for the 1996 tax year, the subject property shall be valued at \$62,500 for the land and \$240,400 for the improvements as determined by the Department



of Revenue.

Dated this 11th day of June, 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.