

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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Helena First, Inc.,	)	DOCKET NO.: PT-1997-132
	)	
Appellant,	)	
	)	
-vs-	)	
	)	
THE DEPARTMENT OF REVENUE	)	<u>OPINION and ORDER</u>
OF THE STATE OF MONTANA,	)	
	)	
Respondent.	)	

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The above-entitled appeal came on regularly for hearing on the 6th day of April, 1999, in the City of Helena, Montana. Neither the taxpayer, nor an agent for the taxpayer, appeared at the scheduled hearing. The Department of Revenue (DOR), represented by Appraisers Don Blatt, Nancy Hallett and Florian Tininenko, presented testimony in support of the DOR appraisal.

The subject property involved in this appeal is described as follows:

Block 30, Parcels 83, 85, 108 and the west 110.8 feet of Parcel 109, with a Geo Code of 1888-30-3-03-15-0000, Helena Townsite, City of Helena, County of Lewis and Clark, State of Montana, and the improvements located thereon. (Department of Revenue Assessor's Code: 2836.)

For the 1997 tax year, the DOR appraised the subject

property at a value of \$186,536 for the land and \$40,300 for the improvements. The taxpayer appealed to the Lewis and Clark County Tax Appeal Board requesting a reduction in value to \$158,536 for the land, stating "Findings and values were arrived at during our previous appeals. Please consult STAB rulings Appeals #PT-1993-1082, 1083, 1084." The County Board denied the appeal, stating "valuation was fair and equitable." The taxpayer then appealed that decision to this Board, stating "Findings and values were arrived at during previous appeals. Fair values were not set on function and economical obsolescence of the property." The taxpayer did not appeal the value of the improvements.

This Board is faced with weighing the evidence and testimony in the record to determine the fair market value of the subject property.

Mr. Blatt submitted the Department of Revenue's Exhibit A, an eight-page document consisting of:

- (1) A copy of the taxpayer's appeal form, signed by the taxpayer;
- (2) A copy of the taxpayer's AB-26 form, which indicated that no adjustment had been made to either the subject land or the improvements;
- (3) A copy of the Department of Revenue's computer screen showing the breakdown of the land and improvement values;
- (4) A copy of the front side of the Department of Revenue's handwritten subject data collection card;
- (5) A copy of the back side of the subject data collection card, indicating that the value of the improvements had decreased from the last appraisal cycle to this cycle due to depreciation of the asphalt;
- (6) A diagram of the subject property, showing the improvements;
- (7) A copy of the front page of the Department of Revenue's

**computer-generated subject property record card; and  
(8) A copy of the back page of the computer-generated property  
record card.**

The Department of Revenue's Exhibit B is a photograph of the subject property. Exhibit C is a copy of a map of the area in which the subject property is located, color-coded to illustrate land value in that area.

Mr. Blatt testified that it is his personal opinion that a parking lot in downtown Helena that is the size of the subject property has a great functional utility, because "parking, as everybody knows, in downtown is very difficult. If not the largest privately-held parking lot in the area, it's very close to the largest privately-owned parking lot in the downtown area. So the functional utility of that parking lot, in my mind, is very good."

Mr. Blatt presented the following information on the valuation of the subject property:

<b>Subject land = 39,634 square feet</b>	
<b>Base size for Neighborhood 202 = 28,000 square feet</b>	
<b>28,000 sq.ft. @ \$5.00 = \$140,000</b>	
<b>11,634 sq.ft. @ \$4.00 = <u>46,536</u></b>	
<b>Total value of land</b>	<b>\$186,536</b>

**Average value per square foot of subject land is \$4.71.**

During the previous appraisal cycle, which began in 1992 and was implemented in 1993, the subject property was valued at \$4.00 a square foot for a total of \$158,536. The taxpayer did not appeal this value. Mr. Blatt explained that in 1997, when the new

values were implemented, the Department of Revenue updated every parcel of land in Lewis and Clark County with the new values. He stated that there are no vacant lots in the downtown area and there have been no vacant land sales downtown for the past two reappraisal cycles. He had discussed with several private fee appraisers, including Mr. C. Robert White, M.A.I., the value they were using for downtown lots. Mr. White had completed an appraisal on the Medical Arts building, located near the subject property, close to the subject property's appraisal date of January 1, 1996. Mr. White had used \$7.00 a square foot for the value of this property.

Mr. Blatt pointed out the areas on the map (Exhibit C) that were color-coded pink to delineate land valued at \$5.00 a square foot. He had also discussed these values with private fee appraisers at the time the values were determined.

Mr. Blatt stated that another means of valuing land is the "land residual technique". If an improved property sells, the appraiser may remove the value of the improvements from the sale price, and the remaining value would then be attributable to the land. This value is then divided by the square footage of the property, resulting in the value per square foot. The example Mr. Blatt cited was the Loranz Building, located on the downtown

walking mall, near the subject property. This property sold in January of 1994 for \$135,000. Using the land residual technique, with no time adjustment, the improvements as valued by the Department of Revenue at \$107,599 were subtracted from the sale price of \$135,000, resulting in a land value of \$27,401. If this amount is divided by 3,143 square feet (the size of the property), the resulting value is \$8.72 per square foot for that property.

In explaining how the value of the subject property was determined, Mr. Blatt did state that "my discussion with fee appraisers carried the most weight in setting the value."

Mr. Blatt's post-hearing submission, as requested by the State Tax Appeal Board to further support his determination of the land value, was received by the Board on April 21, 1999. This document consists of the following: (1) a cover letter from Mr. Blatt, requesting confidentiality for the comparable sales information provided; (2) a copy of **15-7-308, MCA. Disclosure of information restricted...**; (3) a letter from C. Robert White, M.A.I. with the following attachments: a map of the area in which the subject property is located; and a land sale summary with a six-page analysis, prepared by Mr. White.

In Mr. White's letter to Mr. Blatt, dated April 7, 1999, he states: "CBD (central business district) land value is very

difficult to nail down. We simply have no recent arms length comparables... Now if the old Helena CBD were falling into disrepair like Great Falls, land values would fall regardless of zoning. What viable business wants to locate in a deteriorating neighborhood? But Helena's CBD, beginning with the 1970 urban renewal has experienced continued up-grading from 6<sup>th</sup> Avenue South to the Federal Building..."

Mr. White cites the following land values in his cover letter: "There is land listed near the new Napa Auto Parts at **\$7.00** per sq. ft. B-3 zoning with its higher density and lack of on site parking requirements should carry higher value than B-2, other factors being equal. The Great Northern area is at **\$16.00 to \$20.00** per sq. ft. And Nicholson said he will go to **\$25.00** per sq. ft. soon. I think the land along Front Street between Niell (sic) and 16<sup>th</sup> is worth **\$8.00** per sq. ft. If there were a privately owned vacant site between Niell (sic) Avenue and the Federal Building, with no adverse factors, 10,000 to 20,000 sq. ft. in size, I would not be surprised if it brought **\$10.00 to \$12.00** per sq. ft."

Because of the request for confidentiality, the land sales data provided by Mr. White can only be summarized here. This information had been used to help Mr. White determine the value of a downtown property he was appraising in January of 1996. It

included data on six sales in or near the downtown area with sales dates between 8/83 and 1/96. Prices per square foot ranged from a low of **\$4.46** to a high of **\$8.60**, with a mean of **\$6.31**. Adjusted prices per square foot ranged from a low of **\$6.55** to a high of **\$6.88**, with an adjusted mean of **\$6.72**.

Other sales data presented by Mr. White included three outlying commercial strip sales between 4/91 and 12/93. Prices ranged from a low of **\$7.60** per square foot to a high of **\$8.90** per square foot, with adjusted prices of **\$7.05** to **\$7.39** and an adjusted mean of **\$7.18**.

Historic sales in the downtown area provided by Mr. White included five sales between 1/60 and 11/81. Prices per square foot ranged from a low of **\$2.37** to a high of **\$7.46**. Excluding the 1960 sale at **\$2.37** per square foot, the unadjusted mean of the four sales between 1978 and 1981 was **\$6.70** per square foot. Mr. White had determined the value of the property he was appraising in 1/96 to be **\$7.00** per square foot.

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).

It is difficult for this Board to adjust the value when the taxpayer fails to appear to present testimony and respond to questions. *"We note that in those occasional situations when, due to the inherent imperfections in the Department's market-based method, fair, accurate, and consistent valuations are not achieved, individual taxpayers can and should avail themselves of the property tax appeals process set forth at **15-15-101, -102, -103, and -104, MCA.**"* (Albright v. Department of Revenue, 281 Mont. 196.)

This Board finds that the evidence presented by the Department of Revenue did support the values assessed to the land and improvements.

The appeal of the taxpayer is hereby denied and the decision of the Lewis and Clark 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 Lewis and Clark County by the Assessor of said County at the value of \$186,536 for the land and \$40,300 for the improvements as determined by the Department of Revenue and upheld by the Lewis and Clark County Tax Appeal Board.

The appeal of the taxpayer is therefore denied and the decision of the Lewis and Clark County Tax Appeal Board is affirmed.

DATED this 1<sup>st</sup> day of June, 1999.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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GREGORY A. THORNQUIST, Chairman

( S E A L )

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JAN BROWN, Member

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JEREANN NELSON, 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 1st day of June, 1999, 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:

Kevin DeTienne  
22 North Last Chance Gulch  
Helena, MT 59601

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

Appraisal Office  
Lewis and Clark County  
City-County Building  
316 North Park Avenue  
Helena, Montana 59623

Gene Huntington, Chairperson  
Lewis and Clark County Tax Appeal Board  
725 North Warren  
Helena, Montana 59601

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DONNA EUBANK  
Paralegal