

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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MOUNTAIN STATES LEASING	)	
	)	DOCKET NO.: PT 1997-24
Appellant,	)	
	)	
-vs-	)	
	)	
THE DEPARTMENT OF REVENUE	)	FINDINGS OF FACT,
OF THE STATE OF MONTANA.	)	CONCLUSIONS OF LAW,
	)	ORDER AND OPPORTUNITY
Respondent.	)	<u>FOR JUDICIAL REVIEW</u>

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The above-entitled appeal was heard on the 29th day of June, 1998, in the City of Deer Lodge, 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 taxpayer, represented by Wayne Paffhausen, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser William Bandy, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received, and a schedule was established for a post-hearing submission from the taxpayer. This submission was not received. 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:

Plat 62 B, Parcel A 3, 1.957 Acres, Section 28, Township 8 North, Range 9 West, County of Powell, State of Montana, Land and Improvements. (Assessor's Code 0000214203)

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$86,624 for the land and \$655,200 for the improvements.

4. The taxpayer filed an AB-26 Property Adjustment Form on September 18, 1997 stating:

The reassessed (sic) value (1996-\$512,092) to (1997-\$741,824) represents a \$229,732 increase, a 45% jump which I feel is excessive considering the fact that the whole process could be abandoned in 2 years, and no provision is in place, to roll the new assessment back to the 1996 level.

5. In a decision dated October 15, 1997, the DOR adjusted the improvement value, stating: **A**Physical & functional attributes changed to normal.@

6. The value of the land remained at \$86,624, and the DOR modified the improvement value to \$615,880.

7. The taxpayer appealed to the Powell County Tax Appeal Board on November 7, 1997 requesting a value of \$66,378 for the land and \$375,000 for the improvements, stating:

Unrealistic - we only borrowed \$450,000 to build bldg. (Registrar) - we are concerned if system is thrown out - new assessed value remains.

8. The county board issued a decision on November 19, 1997 disapproving the appeal, stating, "Taxpayer did not provide evidence of actual cost or income information to change DOR appraisal." The values approved by the county board were \$86,624 for the land and \$610,360 for the improvements.

9. The taxpayer appealed that decision to this Board on December 10, 1997 stating,

"I appealed increase, assessor dropped to \$541,774, met with tax appeal bd., they increased value to 696,984. Where is justice in this process."

#### **TAXPAYER-S CONTENTIONS**

The taxpayer presented a copy of the 1997 assessment notice for the subject property together with a copy of an AB-26 Property Adjustment Form (TP Ex 1), noting there had been considerable confusion regarding the valuation of this property. Mountain States Leasing requested a 1996 value of \$66,378 for the land and \$400,728 for improvements, based on acquisition and construction costs, and stated a 1997 value reflecting a 25% increase (\$82,972 for the land and \$500,910 for the improvements) would be acceptable. The taxpayer testified the total loan secured for the project was \$450,000; total construction costs were approximately \$500,000 including cost overruns and the land.

The taxpayer testified the land was purchased in 1996 for an amount between \$82,000 and \$85,000, a portion of that attributed to the building of a road, the extension of approximately 300 feet of sewer line and street paving and curbing, all of which were to service property behind the subject land and were conditions of the purchase. The taxpayer then stated that the 1997 land value of \$86,624, as determined by the DOR, was acceptable. The appeal on the land value was withdrawn.

Prior to construction, Mountain States Leasing had a contract in place with the United States government to lease the property to the Forest Service. The taxpayer testified the structures were built in 1996. The lending institution required a fee appraisal which the taxpayer believed placed the value of the subject property between \$575,00 and \$600,000.

#### **DOR-S CONTENTIONS**

The DOR testified the subject property was valued utilizing the cost approach. The income approach was not used because there was insufficient data available.

Following the AB-26 review, adjustments were made to the grade of construction, the physical condition, and functional utility of the office building. The 1997 value of the office building was established at \$446,380, the warehouse \$150,040, yard improvements \$13,940, and OBYs (additional

paving) \$5,520, for a total of \$615,880. A value of \$86,624 was placed on the land. The total 1997 value: \$702,504.

#### DISCUSSION

Mr. Paffhausen, on behalf of the appellant, began his testimony expressing that there had been considerable confusion generated regarding the value of the subject property. The Board agrees and submits that some of this confusion might have been mitigated had a revised assessment been issued to the taxpayer following DOR adjustments that occurred prior to the county board hearing.

During the course of this hearing, the 1997 land value of \$86,624, as determined by the DOR, was agreed to by the taxpayer. The appeal on the land was withdrawn.

The DOR's 1997 improvement value indication was derived utilizing the cost approach to value. The total 1997 improvement value established by the DOR was \$615,880 (office building, 446,380; warehouse, \$150,040; yard improvements, \$13,940; and additional paving, \$5,520). As the DOR did not appeal the improvement value of \$610,360, set by the Powell County Tax Appeal Board, it was that value that was before this Board. To consider otherwise would penalize the taxpayer for appealing the county board's decision.

This Board finds that the taxpayer failed to provide evidence that the 1997 improvement value is not a fair market

value. Neither cost data nor a copy of the appraisal requested as a post-hearing submission was presented to the Board.

**CONCLUSIONS OF LAW**

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

2. '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. (Montana Code Annotated)

3. 42.20.455 CONSIDERATION OF INDEPENDENT APPRAISALS AS AN INDICATION OF MARKET VALUE (1) When considering any objection to the appraisal of property, the department may consider independent appraisals of the property as evidence of the market value of the property. (Administrative Rules of Montana)

4. The appeal of the taxpayer is denied and the decision of the Powell 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 Powell County Tax Appeal Board is affirmed and, for the 1997 tax year, the subject property shall be valued at \$86,624 for the land and \$610,360 for the improvements.

Dated this 15th day of September, 1998.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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PATRICK E. MCKELVEY, Chairman

( S E A L )

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GREGORY A. THORNQUIST, Member

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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.