

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

L. D. and RUTH M. RENFREW,)	
)	DOCKET NO.: PT-2009-16
)	
Appellants,)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,)	FOR JUDICIAL REVIEW
)	
Respondent.)	

Statement of Case

L. D. and Ruth M. Renfrew (Taxpayers) appealed a decision of the Ravalli County Tax Appeal Board (CTAB) relating to the Department of Revenue's (DOR) valuation of their property identified as 380 Hawk Point Lane, Hamilton, Section 09, Township 5N, Range 20W, Lot 23, Arrow Hill, a major subdivision of Hamilton, Ravalli County, State of Montana. The Taxpayers argue the DOR overvalued the property for tax purposes, and they seek a reduction in value assigned by the DOR. The matter was heard before the State Tax Appeal Board on the record.

The Board having fully considered the testimony and exhibits from the record made before the Ravalli County Tax Appeal Board and all matters presented, finds and concludes the following:

Issue

The issue before this Board is did the Department of Revenue determine an appropriate market value for the subject property for tax year 2009?

Summary

L.D. and Ruth Renfrew are the Taxpayers in this proceeding and, therefore, have the burden of proof. Based on a preponderance of the evidence, the Board affirms the decision of the Ravalli County Tax Appeal Board.

Findings of Fact

1. Due, proper and sufficient notice was given of this matter. Both parties were afforded the opportunity to submit additional written statements to the Board.
2. The subject property is described as 380 Hawk Point Lane, Hamilton, Section 09, Township 5N, Range 20W, Lot 23, Arrow Hill, a major subdivision of Hamilton in Ravalli County, State of Montana. (Exh. F.)
3. The Taxpayers were represented at the Ravalli CTAB hearing by Don L. Keller, a certified public accountant. (Keller CTAB Testimony, Property Tax Appeal Form.)
4. The DOR was represented at the CTAB hearing by Debra Reesman, Area Manager, Gay Wagner, Residential Appraiser and Dennis Vick, Residential Appraiser. (CTAB Sign-in Sheet.)
5. For tax year 2009, the DOR originally appraised the subject property at a value of \$593,900 (a land value of \$216,400 and improvements valued at \$377,500. (Appeal Form and Reesman CTAB Testimony.)
6. The DOR used the market approach to value the subject property and the comparable sales properties for the July 1, 2008 appraisal date. (DOR Exhs. F through L.)
7. The DOR based residential market values for the current appraisal cycle on residential property sales which took place between January 1, 2002 and July 1, 2008. The characteristics of the sales properties are compared

- to the characteristics of the subject property to select those properties most comparable to the subject. The market value of the subject is then based on these comparable sales, after adjustments, to make the comparable properties conform to the subject. (Reesman CTAB Testimony, Exh. K.)
8. The Taxpayers argued for a value of \$505,000: \$180,000 for the land and \$325,000 for the improvements. (Keller CTAB Testimony, Appeal Form, 11/23/09.)
 9. The Taxpayers filed a Request for Informal Review (AB-26) on October 5, 2009. During the AB-26 process, the DOR made no adjustment to the value of the subject property. (Keller CTAB Testimony, Appeal Form.)
 10. The Taxpayers filed an appeal with the Ravalli CTAB on November 23, 2009, citing “The appraised value of the subject property done by the Department of Revenue is incorrect. Information will be presented at the meeting to confirm this finding.” (Appeal Form.)
 11. The DOR adjusted the subject property value prior to the CTAB hearing. The new value was set to \$580,800: 216,400 for the land and \$364,400 for the improvements. (Reesman CTAB Testimony, Exh. F.) This reflected the use of different comparable properties.
 12. The Ravalli CTAB heard the appeal on February 2, 2010, and upheld the DOR value for the subject property. (Appeal Form attachment.)
 13. The Taxpayers appealed to this Board on February 12, 2010, stating: “The Ravalli County Tax Appeal Board erred in denying the Taxpayers’ appeal. The Montana Department of Revenue used stale comparative sales information in determining the fair market value of the subject property at 7/1/2008.” (Appeal Form.)

14. Taxpayers used the U.S. Census Bureau Construction Price and Standards & Poor's indexes to compare the calculated derived value to comparable sales. (Exhs. 1-3.)
15. The Taxpayers calculated a Ravalli County compounded growth rate of 6.22% based on the subject property's 2002 assessed value of \$401,200 compared to the 2008 assessed value of \$593,900. (Keller CTAB Testimony, Exhs. 1 & 3.)
16. The DOR presented testimony and exhibits defending the assessed value of the subject property. (Exh. B through L.)
17. The DOR used five comparables properties from the same neighborhood as the subject property. (Ressman CTAB Testimony, Exh. K.)
18. The Department uses "neighborhoods" to group comparable properties and set valuation based on those comparable sales. Homogeneous areas within each county are geographically defined as neighborhoods. The residential lots and tracts are valued through the Computer Assisted Land Pricing models (CALP) and the CALP models reflect July 1, 2008, land market values. (ARM 42.18.110(7).)

Principles of Law

1. The State Tax Appeal Board has jurisdiction over this matter. (§15-2-301, MCA.)
2. All taxable property must be assessed at 100% of its market value except as otherwise provided. (§15-8-111, MCA.)
3. The legislature established a system of instruction, examination, and certification for all appraisers in order to produce more uniform appraisal of property throughout the state by encouraging technical training in the principles, methods, and techniques of appraising

- property and promoting a higher level of professionalism among appraisers. (§15-7-105, MCA.)
4. The same method of appraisal and assessment shall be used in each county of the state to the end that comparable property with similar true market values and subject to taxation in Montana shall have substantially equal taxable values at the end of each cyclical revaluation program hereinbefore provided. (§15-7-112, MCA.)
 5. Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. (§15-8-111(2)(a), MCA.)
 6. The reappraisal of residential property consists of:
 - (a) field reviews;
 - (b) collection, verification, and analysis of sales information;
 - (c) data entry of missing or updated information, new improvements, and sales information;
 - (d) development and review of CALP models;
 - (e) development of sales comparison models/benchmarking;
 - (f) use of door hangers, where appropriate, to collect specific construction detail and building material information regarding a property when the property owner is not present and an internal inspection is not possible;
 - (g) use of self-reporting forms, where appropriate;
 - (h) generation and review of property record sheets (PRS) and comparable sales sheets; and
 - (i) final determinations of value.(ARM 42.18.110(1).)
 7. Residential lots and tracts are valued through the use of CALP models. Homogeneous areas within each county are geographically defined as neighborhoods. The CALP models reflect July 1, 2008, land market values. (ARM 42.18.110(7).)

8. The development of sales comparison models using Property Valuation Assessment System (PVAS) is a requirement for property valuation during the reappraisal cycle. (ARM 42.18.110(8).)
9. The appraised value supported by the most defensible valuation information serves as the value for ad valorem tax purposes. (ARM 42.18.110(12).)
10. The appraised value for residential property may include indicators of value using the:
 - a. cost approach;
 - b. sales comparison approach; and
 - c. when possible, income approach.(ARM 42.18.110(11).)
11. For the taxable years from January 1, 2009, through December 31, 2014, all class four property must be appraised at its market value as of July 1, 2008. (ARM 42.18.124(b).)
12. The state tax appeal board must give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful. (§15-2-301(4), MCA.)

Board Discussion and Conclusions of Law

The Board must determine, based on a preponderance of the evidence, whether the DOR set an appropriate valuation for the subject property for tax year 2009.

As a general rule, the appraisal of the Department of Revenue is presumed to be correct and 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. *Farmers Union Cent. Exch. v. Department of Revenue*, 272 Mont. 471, 901 P.2d 561, 564 (1995); *Western Airlines, Inc., v. Michunovich*, 149 Mont. 347, 353, 428, P. 2d, 3, 7, *cert. denied* 389 U.S. 952, 19 L. Ed. 2d 363, 88 S. Ct. 336 (1967).

This Board concludes the evidence presented by the DOR did support the values assessed. This Board also concludes the Taxpayers have not provided evidence that the DOR appraised value for July 1, 2008 is incorrect.

The Taxpayers used six properties from the Multiple Listing System (MLS) as comparable properties which they time-adjusted with data from national indexes to arrive at a July 1, 2008 value. While the Taxpayers argue the indexes are more appropriate for land valuation, the Taxpayers uses only national indexing which does not provide any indication of local sales trends. Although the Taxpayers attempt to argue that “case law” supports the use of indexing, the Board disagrees. There is no statute, case law or other law that supports the use of national indexing. The Board does not find the use of national indexing for property valuation to be a valid methodology in this case.

Furthermore, the Taxpayers’ argument that the DOR’s comparable sales use stale inaccurate data is not persuasive. The mass-appraisal techniques developed by the DOR are designed to find the value on the open market. For this, the DOR compared five recently-built houses in the neighborhood of the subject property which were sold prior to the July 1, 2008 valuation date. The DOR uses local sales during an appropriate timeframe and time adjusted as directed by law. This is a well established appraisal method used by the DOR and mandated by the legislature. Therefore, this Board does not consider the Taxpayers’ evidence shows those calculations to be erroneous.

Thus it is the opinion of this Board that the assessed value set by the DOR is correct and the decision of the Ravalli County Tax Appeal Board is affirmed.

Order

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property value shall be entered on the tax rolls of Ravalli County at a 2009 tax year value of \$580,800 as determined by the Department of Revenue and affirmed by the Ravalli County Tax Appeal Board.

Dated this 17th of August, 2010.

BY ORDER OF THE
STATE TAX APPEAL BOARD

/s/ _____
KAREN E. POWELL, Chairwoman

(S E A L)

/s/ _____
DOUGLAS A. KAERCHER, Member

/s/ _____
SAMANTHA SANCHEZ, 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 18th day of August, 2010, 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:

L.D. & Ruth Renfrew
380 Hawk Point LN
Hamilton, Montana 59840-9269

U.S. Mail, Postage Prepaid
 Hand Delivered
 E-mail

Debra Reesman
Gay Wagner
Dennis Vick
Ravalli County Appraisal Office
215 North 4th Street, Suite G
Hamilton, Montana 59840

U.S. Mail, Postage Prepaid
 Hand Delivered
 E-mail
 Interoffice

Michelle R. Crepeau
Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

U.S. Mail, Postage Prepaid
 Hand Delivered
 E-mail
 Interoffice

Regina Plettenberg, Secretary
Ravalli County Tax Appeal Board
215 South 4th Street, Suite C
Hamilton, Montana 59840

U.S. Mail, Postage Prepaid
 Hand Delivered
 E-mail

/s/ _____
DONNA EUBANK
Paralegal