

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

ANDY SKINNER,)	
)	DOCKET NOS.: PT 1997-110
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>

The above-entitled appeal was heard on the 19th day of June, 1998, 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 were given as required by law. The taxpayer, represented by owner Andy Skinner and agent Swede Schock, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser Don Blatt, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received, and a schedule was established for a post-hearing submission. Upon receipt of the submission, 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:

Land only, South 100' of Lot 1, Block 25, Flower Garden Addition, Helena, Lewis and Clark County, State of Montana.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$25,000.

4. The taxpayer appealed that value to the Lewis and Clark County Tax Appeal Board (LCTAB) requesting a value of \$15,000, stating: "Exceeds purchase price of \$15,000".

5. In its decision dated February 24, 1998, the LCTAB disapproved the taxpayer's appeal.

6. The taxpayer appealed that decision to this Board on March 13, 1998 stating: "DOR comparable sales not fair representation of actual sales in area."

7. The taxpayer's post-hearing submission is a three-page document addressing numerous sales of vacant and developed property. In addition, a plat map illustrating the location of these sales was also included.

TAXPAYER-S CONTENTIONS

Mr. Skinner indicated on the appeal form that the subject lot was purchased for \$15,000. Mr. Skinner testified the DOR discriminately selects sales when developing land

pricing models; and, he stated the DOR has not included the ten to fifteen sales in which he was the buyer in the development of the models. Mr. Skinner's post-hearing submission in summary illustrates the following:

COMMERCIAL LAND

The commercial land sales of Skinner on Cedar Street, which were purchased in the time period for a value of \$1.00/sq. ft. to a high of \$4.47/sq. ft. are as follows:

- 1. Flower Garden Add. 1993, Blk 25, lt 1 = 3.50 sq. ft. on Cedar St.¹
- 2. Flower Garden Add. 1994, Blk 25, lt 2 = 4.00 sq. ft. on Cedar St.
- 3. Flower Garden Add. 1993, Blk 25, lt 23 = 2.00 sq. ft.
- 4. Flower Garden Add. 1994, Blk 25, lt 24, 25 = 1.50 sq. ft.
- 5. Flower Garden Add. 1994, Blk 25, lt 26,27,28 = 1.25 sq. ft.
- 6. Flower Garden Add. 1993, Blk 28, lt 14, alley = 1.00 sq. ft.
- 7. Flower Garden Add. 1993, Blk 17, lt 7 & 18 = 1.00 sq. ft.
- 8. Flower Garden Add. 1994, Blk 22, lt 9,10,11,12 = 3.07 sq. ft.
- 9. Flower Garden Add. 1994, Blk 22, lt 6,7,8 = 4.47 sq. ft. on Cedar St.
- 10. Flower Garden Add. 1994, Blk 40, lt 4,5,6,7,8 = 1.00 sq. ft. (had small house of no value

The taxpayer's post-hearing submission illustrated additional sales which were not purchases of his:

- 1. Flower Garden Add. 1995, Blk 20, lts 1,2,3,4
lts 13,14,15,16 = 6.19 sq. ft. on Montana
- 2. Flower Garden Add. 1996, Blk 29, lts 6,7,8 = 4.40 sq. ft.
- 3. Flower Garden Add. 1997, Blk 40, lts 1,2,3 = 3.50 sq. ft. on Montana
This sale was 6.19 sq. ft but after cleanup spill cost to buyer was 3.57 sq. ft.
- 4. Flower Garden Add. 1996, Blk 31, lts 1,2,3,4 = 4.00 sq. ft. on Montana
- 5. Flower Garden Add. 1992, Blk 31, lts 13,14,15,16 = 4.60 sq. ft. on Montana
- 6. Flower Garden Add. 1994, Blk 36, lts 1,2,3 = 1.19 sq. ft.
- 7. Flower Garden Add. 1994, Blk 36, lts 11,12 = 2.57 sq. ft.
- 8. Flower Garden Add. 1994, Blk 28, lt 5,6,7 = 3.34 sq. ft.
- 9. Hershield Add. 1994, Blk 7, lts 15,16 = 3.07 sq. ft.

DOR'S CONTENTIONS

Mr. Blatt testified this property is located in DOR neighborhood #206A. (pg 4, ex. A) The Computer Assisted Land

¹This sale is the subject property.

Pricing (CALP) model for this appeal values property with frontage along Cedar Street and Montana Avenue.

DOR exhibit C is the ALand Value Modeling® or CALP for the subject neighborhood. Summarized, the document illustrates the following:

CALP MODEL

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Base Size 28000 Monthly Rate of C (change) 0.7054%
 Base Rate 5.23 Adj (adjustment) Rate 4.22

	Sale Date	Lot Size	Sale Price	Adjusted Price	CALP Value
1	10/93	43,212	\$140,000	\$166,665	\$210,672
2	4/92	24,171	\$ 55,000	\$ 72,459	\$130,290
3	3/95	7,449	\$ 30,000	\$ 32,116	\$ 59,699
4	6/94	32,250	\$210,000	\$238,146	\$168,617
5	2/92	24,030	\$120,000	\$159,785	\$129,695
6	9/93	27,897	\$160,000	\$191,603	\$146,020
7	7/94	11,577	\$ 55,000	\$ 61,984	\$ 77,125
8	12/94	28,923	\$144,790	\$158,068	\$150,351
10	9/92	21,000	\$ 97,860	\$125,473	\$116,904
11	3/92	21,000	\$ 85,000	\$112,582	\$116,904
12	6/91	14,000	\$ 60,000	\$ 83,279	\$ 87,354
9	6/92	103,385	\$350,000	\$456,165	\$464,692

It is the DOR's determination, based on the sales, the subject property is valued at \$5.00 SF.

DISCUSSION

Mr. Skinner indicated on the appeal form that the subject property was purchased for \$15,000 or \$3.00 per square foot. Mr. Skinner's post-hearing submission indicated that the subject property was purchased for \$3.50 SF or \$17,500.

The taxpayer's argument that the subject property's size of 5,000 SF limits the development potential is recognized in the purchase price. Mr. Skinner purchased the adjacent property, Lot 2, Block 25, Flower Garden Addition, in 1994 for

\$4,00 SF.(post-hearing submission) The Board cannot determine from the post-hearing when these two lots were purchased other than the year; subject property in 1993 and Lot 2 in 1994. Based on the post-hearing submission, the subject lot was purchased for \$3.50 SF and the adjacent lot was purchased for \$4.00 SF. All other things being equal, i.e. location, size, conditions of sale, etc, the value increased by 14%. Whether that increase occurred in a twelve month period or something less cannot be ascertained from the evidence or testimony. The DOR CALP model applies a time trending of .7054% per month. When analyzing the taxpayer's purchase of the subject property and the adjacent lot, there is an indication of an increase in value of 14%. By not knowing the transaction date, it is not possible to determine a monthly rate of change. These transactions could have occurred in a one month time frame (14% per month) or up to twelve months (1.2% per month). The DOR's rate of change of .7054% is less than that which the taxpayer's transactions demonstrate.

By assembling the subject and adjacent lots, the taxpayer now has 10,000 SF of land area. It is the Board's opinion that the functional utility of the subject property and the adjacent lot has been enhanced as a result of this assemblage, thereby, creating greater potential for development. This can be supported by the taxpayer's purchase

of Lots 6,7 & 8, Block 22, Flower Garden Addition for \$4.47 SF for 15,000 SF in 1994.(post-hearing submission) This property has Cedar Street Frontage.

CALP is a tool used to aid the DOR in establishing land values. The model in this case determined a price per square foot at \$5.23 and the DOR has adopted a value of \$5.00 SF.

It is the Board's opinion the evidence and testimony supports the DOR's value determination of \$5.00 SF.

CONCLUSIONS OF LAW

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

2. '15-8-111, MCA. **Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

3. It is true, as a general rule, that the appraisal of the Department of Revenue appraisal is presumed to be correct and that the taxpayer must overcome this presumption. Western Airlines, Inc. v. Catherine J. Michunovich, et al, 149 Mont. 347.428 P.2d 3.(1967).

4. 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 appeal of the taxpayer is denied and the decision of the Lewis and Clark County Tax Appeal Board is affirmed. For the 1997 tax year, the 1997 reappraised value for the subject property is \$25,000.

Dated this 21st day of September, 1998.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. MCKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, 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.