

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

ANDY SKINNER,)	
)	DOCKET NOS.: PT 1997-112
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 was 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, Lots 7 & 8, Block 17, 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 \$28,350.

4. The taxpayer appealed that value to the Lewis and Clark County Tax Appeal Board (LCTAB) requesting a value of \$14,000, stating: **A**Purchase price \$14,000 in 1993. How could they be worth \$28,350 in 1996. \$1 vs \$2 SF.@"

5. In its decision dated February 24, 1998, the LCTAB adjusted the value to \$22,900, stating: **A**adjusted to comparable sale very near.@"

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

7. The value before this Board is the value indication as determined by the Lewis & Clark County Tax Appeal Board.

8. The taxpayer's post-hearing submission is a three page document addressing numerous sales of vacant and developed property. A plat map illustrating the location of the these

sales was also included.

TAXPAYER-S CONTENTIONS

Mr. Skinner testified the DOR discriminately selects sales when developing the land pricing models; and he stated the DOR has not included in the development of the land pricing models the sales in which he was the buyer. 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.
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.¹
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 purchased by Mr. Skinner:

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. Hersfield Add. 1994, Blk 7, lts 15,16 = 3.07 sq. ft.

¹ This sale is the subject property.

Mr. Skinner contends the DOR's monthly rate of change of 2.0458% is not supported by factual data.

DOR-S CONTENTIONS

The subject property is located within a residential zoning district in DOR neighborhood #211. The Computer Assisted Land Pricing (CALP) model for this appeal values property within that neighborhood. CALP for the subject neighborhood is summarized and illustrates the following:

CALP MODEL

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Base Size 9800	Monthly Rate of C (change) 2.0458%
Base Rate 2.14	Adj (adjustment) Rate 1.89

	<u>Sale Date</u>	<u>Lot Size</u>	<u>Sale Price</u>	<u>Adjusted Price</u>	<u>CALP Value</u>
1	5/93	10,645	\$ 9,000	\$14,892	\$22,553
5	7/93	7,000	\$ 7,500	\$12,103	\$15,659
2	4/94	9,000	\$10,000	\$14,296	\$19,442
6	9/94	7,000	\$15,000	\$19,910	\$15,659
7	7/94	21,000	\$30,000	\$41,047	\$42,138
8	3/95	20,925	\$38,000	\$45,774	\$41,996
9	2/95	7,000	\$17,000	\$20,826	\$15,659
3	6/95	5,000	\$10,000	\$11,432	\$11,887
4	5/95	7,000	\$17,500	\$20,634	\$15,659

Mr. Blatt stated the CALP model was developed by using verified vacant land sales; and these nine sales provided a sufficient number of transactions to develop the CALP model.

DISCUSSION

The DOR's CALP model (ex. C) was developed recognizing nine vacant land sales. The monthly adjustment for time, illustrated on this exhibit is 2.0458%. Adjusting for time is a recognized appraisal technique. The recognition of paired sales of a comparable property is one method of

establishing an indication of this adjustment. DOR sale #5 and #9 is a paired sale. This property sold in July of 1993 for \$7,500 and resold in February of 1995 for \$17,000. This paired sale illustrates an increase in value of 127% over a nineteen month period or 6.7% per month. The Board recognizes that this is just one sale and there may be other factors which have impacted sales prices. In addition, other influences affecting value would be identified in the sales verification process.

The taxpayer purchased the subject property for \$14,000 in 1993 and the DOR has established a January 1, 1996 market value of \$28,350. The Board is unsure of the exact date the taxpayer purchased the subject property; however, the following illustration is an attempt to depict various rates of change in value:

<u>Taxpayer Purchase</u>	<u>Purchase Date</u>	<u>DOR Value</u>	<u>Assessment Date</u>	<u># Months</u>	<u>% Change</u>	<u>% Change per Month</u>
\$14,000	1/93 ²	\$28,350	1/1/96	36	103%	2.85%
\$14,000	12/93 ³	\$28,350	1/1/96	25	103%	4.12%

<u>Taxpayer Purchase</u>	<u>Purchase Date</u>	<u>LCTAB Value</u>	<u>Assessment Date</u>	<u># Months</u>	<u>% Change</u>	<u>% Change per Month</u>
\$14,000	1/93 ⁴	\$22,900	1/1/96	36	64%	1.77%
\$14,000	12/93 ⁵	\$22,900	1/1/96	25	64%	2.56%

<u>Sale #5</u>	<u>Purchase Date</u>	<u>Sale #9</u>	<u>Purchase Date</u>	<u># Months</u>	<u>% Change</u>	<u>% Change per Month</u>
\$7,500	7/93	\$7,500	2/95	19	126%	6.67%

²The assumption is the sale occurred in January.

³The assumption is the sale occurred in December.

⁴The assumption is the sale occurred in January.

⁵The assumption is the sale occurred in December.

The paired sale illustrates a time adjustment of 6.7% per month and the indications from the taxpayer's transaction indicates something less. The DOR's indication on the CALP model is 2.0458% per month.

The taxpayer expressed to this Board that the DOR excludes any sales in which he was an involved party. The DOR indicated that Mr. Skinner has never returned a sales verification form. A taxpayer is not legally bound to return a sales verification form.

The evidence and testimony presented supports the Lewis & Clark County Tax Appeal Board's decision.

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 \$22,900.

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.