

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

ANDY R. SKINNER,)	
)	DOCKET NOS.: PT-1997-113
Appellant,)	PT-1997-114
)	PT-1997-115
-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 appeals were 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 notices of the hearings were given as required by law. The taxpayer, represented by owner Andy Skinner and agent Swede Schock, presented testimony in support of the appeals. The Department of Revenue (DOR), represented by appraiser Don Blatt, presented testimony in opposition to the appeals. Testimony was presented, exhibits were received, and the Board took the appeals 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 hearings. All parties were afforded the opportunity to present evidence, oral and documentary.

2. The properties involved in these appeals are described as follows:

PT-1997-113: Lots 13 & 14, Block 6, Phoenix Addition, Helena, Lewis and Clark County, State of Montana. Land and improvements.

PT-1997-114: Lots 1-8, 10-13, Block 4; Lots 1-15, Block 5; Lots 1-12, 15 & 16, Block 6; Lots 13-16 and portions of Lots 4, 5 & 11, Block 7, Phoenix Addition, Helena, Lewis and Clark County, State of Montana. Land and improvements.

PT-1997-115: Lots 5-8, Block 3, Phoenix Addition, Helena, Lewis and Clark County, State of Montana. Land only.

3. For the 1997 tax year, the DOR appraised the subject properties at values of:

PT-1997-113: Land - \$24,650; \$4,150 - improvements.

PT-1997-114: Land - \$427,912; \$111,900 - improvements.

PT-1997-115: Land - \$46,850.

4. The taxpayer appealed the DOR's values to the Lewis and Clark County Tax Appeal Board (LCTAB) requesting values of:

PT-1997-113: Land - \$10,800; \$3,150 -

improvements.

PT-1997-114: Land - \$142,637; \$99,800 -
improvements.

PT-1997-115: Land - \$21,600.

5. In decisions dated February 24, 1998, the LCTAB established the values at:

PT-1997-113: Land - \$21,000; \$3,150 -
improvements.

PT-1997-114: Land - \$329,313; \$111,900 -
improvements.

PT-1997-115: Land - \$42,000.

6. The taxpayer appealed those decisions to this Board on March 13, 1998 stating: **A**This adjustment does not reflect the evidence presented at the hearing.**@**

7. A **A**Conditional Use Permit**@** was granted by the City of Helena, Resolution #7985. The permit grants the operation of a mobile home park for Lots 1-8, 10-13, Block 4; Lots 1-15, Block 5; Lots 1-12 15 & 16, Block 6; Lots 13-16 and portions of Lots 4, 5 & 11, Block 7, Phoenix Addition to the City of Helena, Montana (ex. B, pgs 11-13).

TAXPAYER-S CONTENTIONS

Mr. Schock testified the properties identified in these appeals are all a part of the mobile home park.

Mr. Shock estimated the land value to be \$19,000 per acre for 9+ acres or \$175,000 total. The sales which were presented to reach this conclusion are as follows (exhibit #5):

1. 5.64 acres - 1993
Rail Link to Watkins Sheppard directly across the interstate \$5,000/acre
2. 23+ acres - 12/1994
Bompert to Helena Properties next to Watkins Sheppard \$6,000/acre
3. 20 acres - 12/1994
Caird Engineering to N. Montana Partnership located across from City Shops on Carter Drive. North Montana Partnership is Mergenthaler \$12,000/acre
4. 2.4 acres - 1993
Barbour to Davis of D/D RV, next to interstate by D/D RV Sales. This also had a good well/septic on it, \$.30 cents/square foot or \$12,750/acre
5. 1+ acres - 1995
Kaufman to Hodges nest to tract David Purchasers \$25,000/acre
6. 12+ acres 1994
Purchased by Mr. Skinner located behind post office on corner of Sanders and Orange \$12,500/acre

Mr. Schock testified that each of the aforementioned sales are of adequate size to develop a mobile home park.

Mr. Schock presented the Board with value indications from the income approach ranging from \$299,800 to \$313,873 (exhibit #5). Summarized exhibit B illustrates the following:

INCOME APPROACH			
#1 BUILDING RESIDUAL TECHNIQUE			
Tax rate .03838 x 496 mills	=		1.9%
Life expectancy 20 years	=		5.0%
Interest Rate			
10% loan 70%	=	7.00	
12% equity 30%	=	<u>3.60</u>	
		10.60	10.6%
\$155 rent per space per month			
vacancy rate used - 25%			
Collection Loss Average - 5%			
79 spaces x 155 x 12 mo			\$146,940
Less Vac 25%	=	36,735	
Less c/l 5%	=	<u>7,347</u>	
	=	<u>44,082</u>	
Effective Gross			<u>- 44,082</u>
			\$102,858
Expenses			
1. Management		\$12,340	
2. Water		9,000	
3. Electric		1,440	
4. Insurance		5,000	
5. Garbage collection		3,000	
6. Maintenance man			

court, street, snow	22,140	
7. Repairs 3 yr avg	6,000	
8. City special, sewer, streets	<u>4,390</u>	
Total	63,310	<u>- 63,310</u>
Net Operating Income before recapture	=	\$ 39,548
Land Value from comparable sales, \$175,000		
Income attributable to land 175000 x 12.5% = (10.6 discount + 1.9 taxes)	=	\$ 21,875
Residual Income left for improvements	=	17,673
Improvement value 17,673) 14.16%	=	124,800
Sinking fund recapture 20 years (12.26 + 1.9) = 14.16%		
Plus land	=	<u>175,000</u>
As of 10/1/97		\$299,800

#2 OVERALL RATE

In discussions with the SBA and other lending agents, the SBA stated that this type of property would not qualify for an SBA loan unless the lending institution has it tied to other properties.

The typical interest rate is 10% to 12% for this type of loan. Equity would want at least 12%.

The typical loans are made usually at 70% for 15 years with a max of 20 years. I used this information to compute an overall rate.

40% of the value for improvements which in a mobile home court of the value of the improvements are the hookups and other utilities (roads, courts, etc), 60% for land value.

$$\begin{array}{rcl}
 40\% \times \text{recapture\%] + Discount [10.6\%]} & = & 15.6\% \\
 60\% \times (\text{Discount rate } 10.6\%) & & \\
 \text{Overall rate} & = & \frac{6.36\%}{12.60\%}
 \end{array}$$

Net Operating Income	=	\$ 39,548
Total Property Value \$39,548) 12.6%	=	\$313,873

Breakdown

Land Value	=	\$175,000
Improvement Value	=	\$125,000

Mr. Schock testified that the monthly rent of four competing mobile home parks average \$175 per month. The current monthly rent for the subject property is approximately \$155 per month. This rent loss equates to a loss in market

value of \$150,475 ($\$20 \times 79 \times 12 = \$18,960$) $12.6\% = \$150,475$).

Mr. Schock stated that the income approach to value is the most appropriate method of appraisal for this type of property.

Mr. Skinner testified that being located adjacent to the railroad yard and the amount of rail activity have contributed to the high vacancy factor.

Mr. Schock testified the vacant spaces as illustrated on exhibit #4 may represent two scenarios: one, a vacant mobile space and second, a vacant mobile space with a mobile home. The taxpayer owns and operates Life Style Homes, a manufactured home sales business. Mobile homes may be taken in on trade by Life Style and stored at the subject mobile home park or set up and made available as a rental. The mobiles which are being stored give the impression that the subject mobile home park has a higher occupancy than the property is actually experiencing.

Mr. Schock stated in his opinion the highest and best use of Lots 13 & 14, Block 6 (PT-1997-113) is as a part of the mobile home park. These two lots are surrounded by the mobile home park and the improvement is currently being used as storage for operation of the mobile home park. Lots 5-8, Block 3 (PT-1997-15) are not developed as mobile home spaces but, as the vacancy is reduced, these lot would most likely be

developed and become a part of the mobile home park.

DOR-S CONTENTIONS

Mr. Blatt contends Lots 13 & 14, Block 6 (PT-1997-113) and Lots 5-8, Block 3 (PT-1997-15) have never been a part of the mobile home park and are not contributing to the mobile home park. If these lots were developed to be a part of the mobile home park, the DOR would value them as a part of the park.

These parcels are located within a residential zoning district in DOR neighborhood #211. The Computer Assisted Land Pricing (CALP) model for these properties 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

	Sale Date	Lot Size	Sale Price	Adjusted Price	CALP Value
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.

The residential structure located on Lots 13 & 14 has

been classified as an uninhabitable residence with a value indication of \$4,150.

Mr. Blatt testified and submitted exhibits illustrating the following with respect to the valuation of the mobile home park (PT-1997-114):

- C In 1994 the physical depreciation was adjusted from 6% to 25%.
- C In 1997 revised the number of mobile home spaces from 66 to 79.
- C In 1998 the physical depreciation was adjusted to 44% based on Marshall Swift Valuation Service.
- C Land value - \$427,912: Land area - 407,535 SF: \$/SF = \$1.05 SF
- C Year built - 1972
- C The improvements for the mobile home park were identified as being low cost and valued using the Marshall Swift Valuation Service.
- C The DOR improvement value is \$111,900 or \$1,416 per rental space.

Mr. Blatt testified to the sale of a property located across Interstate 15 which Mr. Skinner was the grantor and the United States Government was the grantee. The property sold for \$408,550 in December of 1994. Mr. Blatt demonstrated a land value of \$1.91 per square from this sale as follows:

Sale price	\$408,450
Less: DOR improvement value	<u>(\$ 83,900)</u>
Value attributed to the land	\$324,550

Land value) land area (SF) = \$ per SF
\$324,550) 170,320 SF = \$1.91 SF

Mr. Blatt stated the DOR's value determination for the 1997 tax year for this property is \$1.86 SF.

Mr. Blatt testified to the sale of a mobile home park, Pebble Gardens located on North Montana Avenue. This property sold in September of 1995 for \$860,000. This sale consisted of a manufactured home and 19.567 acres, of which 6 acres is developed with a 56 unit mobile home park. The DOR attributed \$61,870 of the purchase price to the manufactured home.

Mr. Blatt established a value indication for the subject property from the income approach to value at \$877,721 (exhibit G). In summary this exhibit illustrates the following:

Potential Gross Rental Income @ 100% Occupancy		
79 Units @ \$121 x 12 Months		\$114,708
Vacancy Rate & Collection @ 7%	(\$8,030)	
Effective Gross Income		\$106,678
Expense Information Turned In By Survey		
Management @ 2%	(2,134)	
Expenses @ 33%	(\$35,204)	
Total expenses		(\$37,338)
Net Income		\$69,340
Net Income Divided By Overall Rate @ 7.9%		\$877,721

Mr. Blatt testified the income approach was not used to establish the market value for the subject property or any other mobile home park in Lewis & Clark County.

Mr. Blatt testified that income and expense questionnaires were sent to approximately 100 mobile home parks in Lewis & Clark County and in return the DOR received 6 responses. The 6 questionnaires which were returned provided very little useful data to develop an income model.

DISCUSSION

Page 14 is a map illustrating the location of properties under appeal along with the various lots described in the Conditional Use Permit.

Lots 5-8, Block 3 (PT-1997-115) are situated adjacent to the mobile home park, but are not developed with mobile rental spaces. Mr. Blatt stated that if and when the taxpayer obtains approval from the proper authority to improve these lots and make them a part of the mobile home park, the DOR would value the property consistent with the mobile home park. Presently these lot are not contributing to the mobile home park and, therefore, it is not appropriate to consider this property a part of the mobile home park.

The Board agrees with the taxpayer's argument that a majority of the sales used by the DOR are superior to the subject with respect to location. The taxpayer did not present this Board with comparable sales for this property. The LCTAB reduced the value of these lots to \$42,000 or \$1.75 per square foot based on the evidence and testimony presented. The sales which are located in the vicinity of the subject property provide support for the LCTAB's decision.

Lots 13 & 14, Block 6 and the improvement located thereon (PT-1997-113) was at one time used as a single family residence. The taxpayer acquired the property to obtain control

of its use. Based on this property's location in the middle of the mobile home court, it is apparent Mr. Skinner would have the greatest interest in the property (refer to map on page 14). The DOR has recognized the structure as being uninhabitable and used as storage. Mr. Blatt testified that, in his opinion the highest and best use of the property would be to incorporate it in to the mobile home park. It is the Board's opinion the land should be valued consistent with the mobile home park.

The Board was not presented a Computer Assisted Land Pricing (CALP) model for the mobile home park as was presented for PT-1997-113 and PT-1997-115. CALP is a tool used by the DOR in establishing land values. Mr. Blatt presented the Board with one land sale which sold for \$1.91 per square foot. This sale may offer support for the DOR's land value determination, however, one sale does not make a market.

The taxpayer presented the Board with a number of vacant land sales, but none of these sales were testified to as being approved for a mobile home park. The sales could be considered somewhat inferior to the subject due to the fact the subject property has obtained approval to operate as a mobile home park. In addition, the sales may be inferior to the subject with respect to location and access to utilities.

The taxpayer presented a value indication from the income approach to value of \$299,800. The taxpayer's overall

capitalization rate of 12.5% as presented in exhibit #5 offers the best support for a capitalization rate versus the DOR's rate of 7.9%. The taxpayer reduced the potential gross income by a vacancy factor of 25% and a collection loss of 5%. From the testimony and the taxpayers exhibits, it appears the vacancy factor was determined from a single point in time. A vacancy factor may vary depending on the type and characteristics of the property, the quality of the tenants, supply and demand relationships, along with economic conditions. A vacancy factor should be developed from historical data along with surveying the local market. It is the Board's opinion based on the evidence and testimony the proper vacancy/collection loss factor for the subject property is 20%. In addition, the Board considers an appropriate management fee to be 10% of the effective gross income. The remaining expenses as illustrated by the taxpayer's exhibit are considered appropriate. In addition, the DOR did not provide any evidence to dispute the taxpayer's expenses.

Based on the evidence and testimony it is the Board's opinion the best indication of value for the subject property (PT-1997-113 & PT-1997-114) is derived from the income approach to value as follows:

Potential Gross Income	
79 spaces X \$155 monthly rent X 12 months	\$146,940
Less: vacancy/collection loss - 20%	<u>(\$ 29,388)</u>
Effective Gross Income (E.I.)	\$117,552

Expenses		<u>% of E.I.</u>
Management	\$11,775	10.0%
Water	\$ 9,000	7.7%
Electric	\$ 1,440	1.2%
Insurance	\$ 5,000	4.3%
Garbage collection	\$ 3,000	2.6%
Maintenance	\$22,140	18.8%
Repairs	\$ 6,000	5.1%
City specials	\$ 4,390	3.7%
	<u>(\$62,745)</u>	<u>53.4%</u>
Net Operating Income (NO)		\$54,807

Band of Investment (Mortgage & Equity Components)

Mortgage component	.10 X .70 = .070
Equity component	.12 X .30 = .036
Capitalization rate	<u>.106</u>
Effective tax rate	
.03838 X .496 mills	<u>.019</u>
Total Rate	<u>.125</u>

Value Indication

NO/Total Rate = Market Value Indication: \$54,807/.125 = \$438,456

This market value indication reflects the total market value for the property (PT-1997-113 & PT-1997-114). The DOR determined the mobile home park to be identified as a low cost park as defined by Marshall Swift Valuation Service (ex B pg 6). Based on the Board's determination of the market value from an income approach, the value is allocated to the land and improvements as follows (PT-1997-113 & PT-1997-114):

Total market value	\$438,456
Less: CTAB improvement value (PT-1997-113)	(\$ 3,150)
DOR improvement value (PT-1997-114)	<u>(\$109,900)</u>
Land value	\$325,406

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Land area

PT-1997-113	- 12,000 SF
PT-1997-114	- 407,535 SF
Total area	- <u>419,535 SF</u>

Land area ratios

PT-1997-113 - 12,000 SF / 419,535 SF = 2.86%
PT-1997-114 - 407,535 SF / 419,535 SF = 97.14%

Land value determination

PT-1997-113 - \$325,406 x 2.86% = \$ 9,307
PT-1997-114 - \$325,406 x 97.14% = \$316,099

Total \$325,406

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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 appeals PT-1997-113 and PT-1997-114 of the taxpayer are hereby granted in part and denied in part and the decisions of the Lewis and Clark County Tax Appeal Board are modified.

5. The appeal PT-1997-115 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 & Clark County the assessor of that county at a 1997 tax year value of:

PT-1997-113:	Land - \$9,305;	Improvement - \$3,150
PT-1997-114:	Land - \$316,099;	Improvement - \$109,900
PT-1997-115	Land - \$42,000	

Dated this 15th day of October, 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.