

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

DON E. THOMPSON,)	DOCKET NO.: PT-1997-163
)	
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE OF)	FACTUAL BACKGROUND,
THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on September 15, 2000, in the City of Missoula, 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.

Don Thompson, appearing on his behalf, presented evidence and testimony in support of the appeal. The Department of Revenue (DOR) was represented by Region 4 Leader James Fairbanks. Testimony was presented and exhibits were received. The Board then took the appeal under advisement. The Board having fully considered the testimony and exhibits, and all things and matters presented to it by all parties, finds and concludes as follows:

FACTUAL BACKGROUND

1. Due, proper and sufficient notice was given of this

matter, the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The property which is the subject of this appeal is described as follows:

Lot 15, Clearwater Outlet, Section 4, Township 16 North, Range 15 West, County of Missoula, State of Montana. (Lease Agreement Number 3061213).

3. The DOR appraised the subject leased lot at \$50,350 for the 1997 tax year.

4. The taxpayer appealed to this Board on January 22, 1998 requesting a reduction in the land value to \$35,700, citing the following reasons for appeal:

1. Fed lease on lake - sold Aug. 1997 - 110,000.00 - 3 livable structures. 2. Tanberg lease downriver - had less than 50% increase - my increase - approx 130% (23,800 to 50,350) 3. Last 2 years - lot 90% flooded. 4. Geo Hart property on river - 7 acres - sold for 44,000.00 - 6,285 per acre.

5. The Board has jurisdiction in this matter pursuant to §77-1-208, MCA.

TAXPAYER'S CONTENTIONS

The taxpayer owns a cabin on Lot 15 on the west shore of the Clearwater Outlet below Seeley Lake. Lot 15 has been leased from the State of Montana by Mr. Thompson's family for approximately 50 years.

In the 1992-93 appraisal cycle, Mr. Thompson appealed the valuation of his lot to the Missoula County Tax Appeal Board and then on to this Board, receiving a 20% reduction in value. The DOR appealed this Board's decision in the district court and that action was later dismissed. The taxpayer testified, "I feel that the 20% reduction should be set in stone, that it should be a given anytime that the five-year appraisal value goes into effect."

Appellant's Exhibit 1 outlines the taxpayer's reasons for appeal. Exhibit 2 contains a copy of a document presented in his 1993 appeal listing numerous negative features of the lot.

In point number two of Exhibit 1 the taxpayer states, "A concern is that there are no definite boundaries. August 4, 2000, DNRC staff, Steve Wallace, Tony Liane, and Jeannie Fairbanks set boundary markers on the west shore lots. I was there and helped located some of the original boundary markers. My lot 15, river front was measured at 160 feet. Lot 14, at 200 feet and lot 13, 226 feet. I walked lots 11 and 12 (riverfront) and they were more than 200 feet. I walked lots 21, 22, 23 (backside) and they were way in excess of 200 feet. I have a smaller lot frontage wise. This should be taken in consideration."

The taxpayer spoke of his regarding repeated flooding to his property. Point number three on Exhibit 1 states, "My lot 15 in the food (sic) plan. In 1997 the lot was nearly completely

covered with water. I have water every year directly behind my cabin until normally the end of June, beginning of July. I have running water to the south side, 30 feet from my cabin throughout most of the summer." Approximately 50% of the lot is unusable due to marshy conditions.

DEPARTMENT OF REVENUE CONTENTIONS

The Department provided testimony in opposition to this matter. Exhibit A is an appraisal report for the Department of Natural Resources and Conservation on cabin site leases in Missoula County prepared by James Fairbanks. The following is a summarization of the DOR's position from that report:

Introduction: In 1983, Montana law required that cabin site licenses and fees be determined at 5% of the current market value of the property. . . in 1989, 77-1-208, MCA, was amended requiring the Department of Revenue (DOR) to appraise the cabin sites in the course of reappraising property subject to taxation. This change made available the property appeal processes necessary to resolve valuation disputes. Additionally, the fee was changed to 3.5% of value (70% of the original 5% to address leasehold value.) In the summer of 1989, county appraisal offices (DOR) supplied DNRC with values for cabin sites consistent with ad valorem tax values based on 1982 market sales. In 1993, DOR supplied state lease values were based on January 1992 market indications. For 1998, DNRC is provided values based upon current market influences consistent with a recently completed statewide reappraisal. While ad valorem tax appraisals affected by Senate Bill 195 were "phased-in," DNRC state lease values were affected in pertinent part by 77-1-208, MCA: "The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111 without any adjustment as a result of phasing in values. Market sales of lake properties increasing dramatically in the past few years have consequently influenced cabin site values for current renewals. . . .

General description of the concept: The Computer Assisted Land Pricing (CALP) system is based on the principle that it is possible to arrive at a reasonable and satisfactory estimate of land value through the application of various incremental adjustments and influence factors to a BASE PRICE paid for a unit of land. The unit of land may be a standard lot size in front feet, or in acres. Once the BASE SIZE and BASE VALUE is determined, the PRIMARY and RESIDUAL VALUES are assigned. Parcels that are smaller or larger than the BASE are adjusted from the BASE VALUE by the residual . . .

Clearwater Outlet: Along both sides of the Clearwater River exiting Seeley Lake in Section 4, T16N, R15W, the Clearwater Outlet leases number thirty-two on the east shore and twenty-four on the west side. On-site review of each lot provided a detailed description of amenities (or lack, thereof) useful in applying percentage reductions applied previously by the CTAB. At issue throughout CTAB and STAB hearings was the lack of clear lease delineations describing actual frontage and depth measurements useful in valuing water-fronting lots. DNRC has plans to measure historical use and place corner markers with the help of the lessees, then survey the area. The same procedure was accomplished at Elbow Lake in 1997. Until provided surveyed lot measurements by DNRC, the Clearwater Outlet lots will be "site valued" measuring the Seeley Lake access value of wide river frontage.

Comparable Sales: Twenty lake front sales indicated a typical value of \$122,655 for lots averaging 162 front feet of lake exposure, establishing a ceiling for valuation consideration for Clearwater Outlet. Twenty-nine sales of river fronting lots in the Seeley and Swan areas established average lot values from \$30,965 to \$34,759, respectively, indicating a minimum water access value. Smaller Cygnet Lake connecting to Lindberg Lake and offering limited amenities in comparison, experienced two sales of smaller lots at \$67,040 (55' X 100') and \$109,829 (200' X 100').

Value Determination Discussion: The Clearwater Outlet lease lots pose several valuation challenges. While affording river/boating access to Seeley Lake, no sales of comparable water fronting lots lacking important amenities have occurred. For the previous past 1993-1996 appraisal cycle, Clearwater Outlet lots were valued at \$29,750 based upon an estimate frontage and depth that, when compared to obviously more desirable Seeley Lake lots of like size (@ \$57,750), represented 51.5% of Seeley Lake lot

appraisals. STAB conducted hearings on several appeals of the subject lots, citing "The Board finds that the DOR has adequately addressed the Respondent's concerns about the value-diminishing features of the Clearwater Outlet lots when it made adjustments for septic and access problems by reducing the value obtained by studying lake front property sales by using the residual land value to the subject lot. The values determined by the DOR were conservative estimates." In one of the more thoughtful valuation arguments offered by a lessee, examples of adjustments (attributed to unnamed Realtors and appraisers) were listed as a 10% reduction for lack of domestic water service; a 10% deduction for evidence of surface water and flood hazard; and a 30% deduction for septic restrictions. The value of one minus 10%, minus 10%, and minus 30% equals 56.7% to 60% good. When a 51.5% factor is applied the average lakefront lot sales at \$122,655, a \$63,167 indicated site value results. If the same factor is applied the average 1997 appraisal of the 76 Seeley Lake waterfront properties at \$104,388, an adjusted site value of \$53,760 follows. In June of 1985, the only recorded sale of a lake lot with septic denial occurred establishing a 35% value loss. If this factor is applied the two lot sales on Cygnet Lake, a range from \$43,576 to \$71,388 emerges.

The market driven computer assisted land pricing (CALP) schedules for the 1997 lake front properties valued the primary 100 feet of lake frontage at \$1050 per front foot (FF), and the residual frontage (exceeding 100 FF) at \$300 FF. Previous appraisal cycle values were \$450 FF/Primary and \$170 FF/Residual. When extended to a typical 200' X 200' lot, the appraisals extend as follows:

<u>1997 (1-96 Base)</u>		<u>1993-1996 (1-92 Base)</u>	
100' (Primary) X \$1050	= \$105,000	100' X \$450	= \$45,000
100' (Residual) X \$300	= <u>30,000</u>	100' X \$170	= <u>\$17,000</u>
	\$135,000		\$62,000

1992 to 1996 appreciation for lake front lots: \$135,000/\$62,000 = 218%

1992 v. 1996 CALP Residual pricing comparison: \$300/\$170 = 176%

FINAL DETERMINATION OF VALUE

1. Average Lake Front Sales:	\$122,655 X 51.5% Adjustment	=	\$63,167
2. Average Seeley Lake '97 Appraisal:	\$104,388 X 51.5% Adjustment	=	\$53,760
3. Cygnet Lake Sales:	\$67,040/\$109,829 X .65 Factor	=	\$43,576/\$71,388

4. Factored '93-'96 Clearwater Values: \$29,750 X 2.18 Appreciation Factor = \$64,558
5. Factored '93-'96 Clearwater Values: \$29,750 X 1.76 Residual Factor = \$52,360
6. River Fronting Lot Sales: \$30,956 / \$34,759

Following examination of the preceding appraisal indications, none were ignored due to total reliability, nor was any averaging method used.

#1 average lake front sales (when adjusted for lack of amenities) and **#4 factored '93-'96 residual Clearwater values** represent the upper level of value. **#6 river fronting lot sales** depicts a minimum value indication, but lacks comparability due to lack of water recreational benefit.

Greater confidence was found in **#2 average Seeley Lake '97 appraisal** and **#5 factored '93-'96 residual Clearwater values**, which are supported by **#3 Cygnet Lake sales** (factored for lack of septic approval).

In the opinion of the appraiser, the market value of the basic Clearwater Outlet cabin site prior to any deductions for negatives specific to lots, as of January 1, 1996 was:

\$53,000.00

Previous pages discuss the valuation difficulties encountered in appraising the Clearwater River Outlet lots extending below Seeley Lake. The lack of specific lot measurements made comparisons to other similar waterfront sales difficult, at best. As discussed, a reasoned \$53,000 site or water-access value was considered to be an appropriate (if not conservative) appraisal.

In the fall of 1998, DNRC accomplished a field review of the EAST SHORE lots to determine agreement among lessees in establishing lease boundaries. Lessees were notified prior to the review, and aided in the setting of "pins" which were later surveyed by Eby and Associates, out of Kalispell. (A similar survey is planned for WEST SHORE lots in the fall of 1999).

In March of 1999, this appraiser was provided a copy of the EAST SHORE survey. The individual measurements were, on average, dramatically larger than previously estimated. For 1992 valuation considerations, average Outlet lot frontage and depth was estimated to be 175' X 200'. Ms. Eby's survey establishes the average frontage and depth to be 213' X 327'!

Using this updated lot size information allows for comparative analysis with other waterfront parcels on a 'foot by foot' basis. Preliminary valuations resulted in individual lot appraisal averages between \$65,000 and \$70,000 (prior to

adjustments for "lack of amenity").

Following discussions with DNRC, it is considered inappropriate to apply the effects of the survey to valuation on the East Shore until a corresponding survey is accomplished for the West Shore.

Therefore, for 1999, the appraiser has valued the East Shore Clearwater Outlet lots through the use of a discounted BASE VALUE of \$36,000 (\$360 for each of the initial 100 front feet). Parcels smaller, or larger than the 100' BASE are adjusted by adding or subtracting from the BASE VALUE by multiplying the difference (between the actual frontage and 100FF) times the \$155 front foot value indicated in the sale of river fronting lots.

East Shore Outlet lots (adjusted for property negatives) prior to receipt of the subject survey, averaged \$44,809. The average adjusted East Shore lot values following application of survey delineations, now average \$44,738.

The DOR's Exhibit A also contains a document entitled "DNRC Leases Subject to DOR Valuation in Missoula County 1997 Cycle Values (1-1-96 BASE YEAR)." The document includes a listing of Clearwater Water Outlet, West Shore leases with property identifiers including lessee name, property description, etc. This document identifies the subject property under Geo-Code 04-2540-04-3-02-05 and Lease Number 3061213. Along with site characteristics and a property legal description, the document shows that the subject property's assessment includes a five percent reduction from original appraised value of \$53,000 due to "no septic and back lot needs cleanup". The site value for the West Shore Lots was \$53,000. The five percent reduction afforded the subject assessment due to "no septic and back lot needs cleanup" resulted in an appraised value of \$50,350 for tax year 1997.

BOARD DISCUSSION

The taxpayer emphasized that there should be differences in market value between private lots and state lease lots due to the restrictions placed on the lease lots and lack of amenities. He believes that the State should not appraise these lots in the same manner as those held in fee simple ownership. In attempting to address this issue, the Board studied the history of the legislation that regulates fees for state cabin site leases, as enacted in 1983 and amended in 1989 and 1993. §77-1-208, MCA states that "The board (of land commissioners) shall set the annual fee based on **full market value** (*emphasis added*) for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain **full market value** (*emphasis added*) based on appraisal of the cabin site value as determined by the department of revenue..." The original legislation, which was enacted by the 1983 legislature as House Bill 391 (Chapter 459), reads, in pertinent part:

AN ACT TO REQUIRE THAT IF THE BOARD OF LAND COMMISSIONERS ADOPTS RULES TO ESTABLISH THE MARKET VALUE OF CABIN SITE LICENSES AND LEASES, IT ADOPT A METHOD OF VALUATION OF CURRENT CABIN SITE LICENSES AND LEASES BASED UPON AN APPRAISED LICENSE OR LEASE VALUE AND A METHOD OF VALUATION OF INITIAL CABIN SITE LICENSES OR LEASES BASED UPON A SYSTEM OF COMPETITIVE BIDDING; AND PROVIDING FOR THE VALUATION, DISPOSAL, OR PURCHASE OF FIXTURES AND IMPROVEMENTS.

WHEREAS, on February 13, 1981, the Board of Land Commissioners proposed to adopt rules concerning surface licenses and leases for the use of state forest lands for recreational cabin sites by private

individuals, which rules would have established the market value of recreational cabin site licenses and leases by a system of competitive bidding; and

WHEREAS, the rules would have allowed out-of-state interests and other parties to increase by competitive bidding the cost of current cabin site licenses and leases and would thereby have worked a hardship on or dispossessed current licensees and lessees and were therefore subsequently withdrawn by the Board; and

WHEREAS, the policy of this state for the leasing of state lands as provided in 77-1-202 is that the guiding principle in the leasing of state lands is "that these lands and funds are held in trust for the support of education and for the attainment of other worthy objects helpful to the well-being of the people of this state"; and

WHEREAS, allowing current cabin site licensees and lessees to continue to enjoy the benefits of existing licenses and leases and the benefits of their labor is a worthy object helpful to the well-being of the people of this state in that it promotes continuity in the case of state lands, promotes use of state lands by the public by granting a minimal expectation of continuing enjoyment, and promotes satisfaction with governmental processes.

THEREFORE, it is the intent of this bill to direct that if the Board of Land Commissioners adopts any rules under whatever existing rulemaking authority it may have to establish the market value of current cabin site licenses or leases, that the Board, in furtherance of the state policy expressed in 77-1-202, adopt a method of establishing the market values of cabin site licenses and leases which would not cause undue disruption to the lives and property of and useful enjoyment by current licensees and lessees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. **Method of establishing market value for licenses and leases.** (1) If the board adopts, under any existing authority it may have on October 1, 1983, a method of establishing the market value of cabin site licenses or leases differing from the method used by the board on that date, the board shall under that authority establish a method for setting the market value of:

(a) each cabin site license or lease in effect on October 1, 1983, for each licensee or lessee who at any time wishes to continue or assign his license or lease, which method must be **5% of the appraisal of the license or lease value of the property** (*emphasis added*), which value may be increased or decreased every fifth year by 5% of the change in the appraised value..."

In a hearing before this Board concerning a state lease

lot in Flathead County, (**Marilyn A. Harmon and Daniel E. Harmon v. Department of Revenue, PT-1999-19**), held on April 26, 2000 in Kalispell, Mr. Miller testified that, following the passage of the above legislation, statewide meetings were held with lessees, who expressed their concerns with the 5% fee. This resulted in the reduction to 3.5% (or 70% of the 5%), as implemented by Senate Bill 226 (Chapter 705), passed by the 1989 legislature. As introduced, Senate Bill 226 proposed a reduction of the 5% fee to "1.5% of the appraisal of the cabin site value as determined by the county appraiser." The fiscal note for the bill stated: "The significant difference between the current process and this proposed law is the percentage used to derive the rental. Current law provides that the rental will be **5% of the lease value (3.5% of appraised value)**. The proposed legislation sets the rental at **1.5% of appraised value**." (*Emphasis added*) During the February 1, 1989 hearing on Senate Bill 226 before the Senate Committee on Natural Resources, the following exhibit was presented by the bill's sponsor, Senator Matt Himsl:

RENTAL RETURNS ON CABIN SITES ON STATE LANDS

The Forestry Division - Department of State Lands is charged with the responsibility of administering the cabin sites...

According to the Forestry Division, 633 cabin sites have been identified on state lands. Almost all of these sites are in areas west of the Continental Divide... All of the identified state land cabin sites were under lease under the old law.

The 1983 Legislature passed HB 391 which instructed the Board of Land Commissioners to change the method of valuing cabin site licenses and leases after October 1, 1983, to:

- (a) each cabin site license or lease in effect

on October 1, 1983, for each licensee or lessee who at any times wishes to continue or assign his license or lease, which method must be **5% of the appraisal of the license or lease value of the property...** (*Emphasis added*)

- (b) The problem surfaced when the department began to implement the 1983 law in 1987 and began issuing notices that the rental fees would be **5% of the appraised value of the land, interpreting lease value to be market value.** (*Emphasis added*) That judgment shot the leases which had been \$150 a year up to \$2,300 a year, in some cases. A storm of protests from the lessees got the department to reconsider and **the Board determined that the "lease value" would be 70% of the appraised market value, then applied the 5%.** (*Emphasis added*) The method still drove the leases sky high and brought into play the appraisal values which the lessees protested. The department appraisers then re-visited the sites and began making adjustments, some of the reappraisals dropped as much as \$10,000. There seems to have been no standard judgment. As an example a lease, which about five years ago was \$50, went up to \$150 and then went up to \$2,300, then dropped \$910 a year. This explains why people are upset.

Senate Bill 226 would be a simple and uniform procedure: The County appraiser, who already goes on the property to appraise the improvements, would appraise the land, just as he does the neighbor. **Since the lessee does not have the rights of the fee-simple landowner, and since the state reserves a "public corridor" on the beach, the lessee does not have a private beach and adjustments in value would be made accordingly.** (*Emphasis added*)

Then if the rental fee would be 1.5% of the appraised value, the lessee would be paying about the same as his neighbor pays in taxes to support the government. However, in this case of state lands, it would go to the state elementary and secondary school funds.

If the lessee didn't like the appraisal value, he would have the same appeal structure as any other landowner and the system would be uniform."

Senator Himsl testified that "the 1.5% figure is

arbitrary but the State will find that the total tax runs between 1.4 and 1.8 of the market value." During the committee's executive action on the bill, 1.5% was amended to 2%. As amended, the bill was transmitted to the House and was heard by the House Taxation Committee on March 31, 1989. During the hearing an amendment was proposed to return the fee to the original 5%, but the amendment failed. The committee passed the bill with the 2% rate to the House floor for action, where it was amended to 3.5% and passed. The joint House/Senate conference committee considering the bill's amendments allowed the 3.5% to remain, and the final bill was passed with that percentage. The joint conference committee also added a provision to the bill for a minimum fee, so the final language of the relevant section reads as follows: §77-1-208, MCA, 1 (a)...The fee must be **3.5%** of the appraisal of the cabin site value as determined by the department of revenue **or \$150, whichever is greater...**" (*Emphasis added*)

Senate Bill 424 (Chapter 586), passed by the 1993 legislature, amended §77-1-208 to eliminate the 3.5% annual fee, substituting the language that is presently in statute: "(1) The board shall set the annual fee **based on full market value** for each cabin site... The fee must **attain full market value** based on appraisal of the cabin site value as determined by the department of revenue." (*Emphasis added*) An attempt was made in the Senate

Taxation Committee to restore the language to 3.5%, but the amendment was defeated. The statute has not been further amended since 1993.

The applicable Administrative Rules of Montana state:

36.25.110 MINIMUM RENTAL RATES (6)(a) Effective March 1, 1996, and except as provided in (b), the minimum rental rate for a cabinsite lease or license is **the greater of 3.5% of the appraised market value of the land**, excluding improvements, as determined by the department of revenue pursuant to 15-1-208, MCA, **or \$250.** (*emphasis added*) (b) For cabinsite leases or licenses issued prior to July 1, 1993, the minimum rental rate in (a) is effective on the later of the following dates: (i) the first date after July 1, 1993, that the lease is subjected to readjustment pursuant to the terms of the lease, or the first date after July 1, 1993, of lease renewal, whichever date is earlier; or (ii) March 1, 1996. (c) Until the minimum rate in (a) becomes applicable, the minimum rate is the greater of 3.5% of the appraised market value of the land, excluding improvements, as determined by the department of revenue pursuant to 15-1-208, MCA, or \$150.

The Board agrees that the taxpayers have a valid concern about potential buyers of leased properties worrying about future increases in lease fees. The Montrust Supreme Court decision (*Montanans for the Responsible Use of the School Trust v. State of*

Montana, ex rel. Board of Land Commissioners and Department of Natural Resources and Conservation, 1999 Mont. 263; 989 P.2d 800),

referred to in Mr. Miller's testimony, was filed by a citizens' action group, *Montanans for the Responsible Use of the School Trust*, against the Montana Board of Land Commissioners and the Department of Natural Resources and Conservation, challenging fourteen school trust lands statutes, including §77-1-208, MCA, relating to cabin site leases. The decision, in pertinent part, states: "¶26 The District Court (of the First Judicial District) ruled that §77-1-208, MCA did not violate the trust because it requires that full market value be obtained. However, the District Court found that the Department had a policy of charging a rental rate of 3.5% of appraised value (hereafter, the rental policy) and that Montrust had introduced an economic analysis of cabin site rentals showing that the rental policy's 3.5% rate was 'significantly below a fair market rental rate.' The District Court concluded that the rental policy violated the trust's constitutional requirement that full market value be obtained for school trust lands... ¶31...we conclude that the rental policy violates the trust... In the present case, the trust mandates that the State obtain full market value for cabin site rentals. Furthermore, the State does not dispute the District Court's determination that the rental policy results in below market rate rentals. We hold that the rental policy violates the trust's

requirement that full market value be obtained for school trust lands and interests therein."

Future large increases in lease fees as a result of the Montrust suit may have results that are unfavorable to present leaseholders, including fewer potential buyers for their properties, and declining values of their improvements. Two previous Board decisions relevant to these concerns are *DOR v. Louis Crohn, PT-1997-158*, and *DOR v. Burdette Barnes, Jr., PT-1997-159*. In both instances, the Board stated that "the improvements that are located on this lot are not a part of the appeal before the Board. It is arguable that the **value of the improvements has been impacted by the increasing lease fee to a point where they are not attractive on the market.** The testimony of other lessees in other appeals that have in fact been attempting to sell the improvements and have not received a great amount of interest from potential purchasers, might be indicative of the fact that **potential buyers are aware of the amount of the annual fee and believe they must be compensated by a lower purchase price for the improvements.**" (*Emphasis added*)

However, this Board concludes that the DOR has satisfactorily carried out its statutory mandate to determine full market value under Section 77-1-208(1), MCA.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **Section 15-2-302, MCA and Section 77-1-208, MCA.**

2. **Section 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. **Section 77-1-208, MCA. Cabin site licenses and leases - method of establishing value.** (1) The board shall set the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain full market value based on appraisal of the cabin site value as determined by the department of revenue. . . The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111 without any adjustments as a result of phasing in of values. An appeal of a cabin site value determined by the department of revenue must be conducted pursuant to Title 15, Chapter 2.

4. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that 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. (Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967)).

tax rolls of Missoula County by the local Department of Revenue office at the 1997 tax year value of \$50,350, as determined by the Department of Revenue and affirmed by this Board.

Dated this 28th day of September, 2000.

BY ORDER OF THE
STATE TAX APPEAL BOARD

GREGORY A. THORNQUIST, Chairman

(S E A L)

JAN BROWN, Member

JEREANN NELSON, 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 28th day of September, 2000, the foregoing Amended 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:

Don E. Thompson
1635 Cooper Street
Missoula, Montana 59801

Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

Attn: James Fairbanks
Missoula County Appraisal Office
Missoula County Courthouse
200 West Broadway
Missoula, Montana 59802

DONNA EUBANK
Paralegal