

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

SHANNON WADSWORTH, et al,)	
)	DOCKET NO.: PT-2009-27
)	
Appellants,)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE OF THE STATE OF MONTANA,)	ORDER and OPPORTUNITY
)	FOR JUDICIAL REVIEW
Respondent.)	

Statement of Case

Shannon Wadsworth et al (Taxpayers) appealed a decision of the Cascade County Tax Appeal Board (CTAB) relating to the Department of Revenue’s (DOR) valuation of their property identified as 3219 Upper River Road, in the SW ¼, NW ¼ MK 10A of Section 24, Township 20N, Range 03E, of Cascade County, State of Montana. The Taxpayers argue the DOR land classification is incorrect, and they seek reclassification to non-qualified agricultural land by the DOR. At the State Tax Appeal Board (Board) hearing held on June 22, 2010, the Taxpayers were represented by Shannon Wadsworth, licensed appraiser and owner, with supporting testimony from James D. Volk, licensed appraiser. The DOR, represented by Michele Crepeau, Tax Counsel; Joan Vining, Area Manager and Nate Kluz, DOR appraiser, presented testimony and evidence in opposition to the appeal.

The Board allowed the record to remain open for a period of time for the purpose of receiving post-hearing submissions from both parties.

The Board having fully considered the testimony, exhibits, post-hearing submissions and all matters presented, finds and concludes the following:

Issue

The issue before this Board is did the Department of Revenue determine the appropriate classification of tract land for the subject property for tax year 2009?

Summary

Shannon Wadsworth, *et al*, 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 Cascade County Tax Appeal Board.

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 opportunity to present evidence, verbal and documentary.
2. The subject property is a .44 acre lot with the following legal description:
3219 Upper River Road, in the SW ¼, NW ¼ MK 10A of
Section 24, Township 20N, Range 03E, of Cascade County,
State of Montana. (Exhibit A.)
3. For tax year 2009, the DOR appraised the subject property at a value of \$53,793: a land value of \$27,031 and improvements valued at \$26,762. (Exh. 1, Kluz Testimony.)
4. The subject property is used as residential rental property. It has its own septic system and shares a water line with the adjacent property also owned by the Taxpayers. (Wadsworth Testimony.)

5. The DOR used the cost approach to value the subject property improvements for the July 1, 2008 appraisal date, which are not at issue in this matter. (Exh. 1.)
6. The Taxpayer submitted evidence showing the subject property was included with his adjacent contiguous property and assessed as non-qualifying agricultural land for the last appraisal cycle. (Exh. 1.) The valuation for non-qualifying agricultural land is significantly less than the valuation for tract land.
7. Wadsworth requested the land be reclassified as non-qualifying agricultural land. (Wadsworth Testimony.)
8. DOR appraiser Nate Kluz testified that because of a change in ownership, as demonstrated by a deed dated October 14, 2002, the subject property was no longer eligible to be combined with adjacent property and classified as non-qualified agricultural land. (Kluz Testimony.)
9. The Taxpayers submitted Quit Claim Deeds, dated February 15, 2002, showing the Leonard Wadsworth Revocable Trust conveyed all interest in the subject property and the adjacent property to Shannon Wadsworth and Madonna Moosman. (Exhs. 2 & 3, Wadsworth Testimony.)
10. The Taxpayers claimed the deeds indicated that the ownership of the subject parcel and the adjacent parcel are the same. (Exhs. 2 and 3.)
11. During the hearing, it became apparent that the parties did not possess the same deed information for the subject property.
12. As post-hearing submissions, the DOR provided the Board with additional deed information indicating that the last filed deed was dated October 14, 2002 and indicated ownership of the subject property as

Shannon Wadsworth and Madonna Moosman Revocable Trust. (Exh. B.)

13. The DOR used a CALP (Computer Assisted Land Pricing) model to establish the land value of \$27,031 for the subject property. The CALP in this instance is based on 122 vacant land sales. The CALP sales and the subject property are all located in Neighborhood 009.A of Cascade County, which are geographic areas designated by the DOR as having similar characteristics for purposes of valuation. Based on the CALP, the DOR set one acre as the base size for a parcel in Neighborhood 009.A. In addition, the DOR determined a base acre value of \$27,635 and the value of each residual acre was \$1,079, again based on the CALP. (Kluz Testimony, Exh. B.)
14. The Taxpayers did not contest the valuation derived from the CALP.
15. The Taxpayers filed an appeal with the Cascade County Tax Appeal Board (CTAB) on November 10, 2009 after an unsuccessful informal review. The Taxpayer requested a reduction in the value of the subject land to \$707 and is accepting the DOR value of \$26,762 for the improvements. (Appeal Form.)
16. The Cascade CTAB heard the appeal on February 9, 2010, and upheld the DOR value for the subject property. (Appeal Form.)
17. The Taxpayer appealed to this Board on March 7, 2010, stating: "County Tax Appeal Board did not review exhibits. Age is wrong which discriminate (*sic*) against equalization." (Appeal Form.)

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. 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).
4. Parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), MCA, are considered to be nonqualified agricultural land. (§15-6-133(c), MCA.)
5. The appraised value supported by the most defensible valuation information serves as the value for ad valorem tax purposes. (ARM 42.18.110(12).)
6. "Contiguous parcels of land" means separately described parcels of land under one ownership that physically touch one another. (ARM 42.20.601(10).)
7. "Nonqualified agricultural land" means parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land. (ARM 42.20.601(21).)
8. A market value determination will be made for each one-acre area beneath each residence(s) which is located on nonqualified agricultural land. (ARM 42.20.655(2).)
9. If the one acre of land is located on a nonqualified agricultural parcel of land that is near a suburban area, the market value assigned to the one-acre area will be consistent with the market value of surrounding suburban land. (ARM 42.20.655(2)(e).)

10. 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 classification for the subject property for tax year 2009.

As a general rule, the classification of property by 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).

The DOR argues there has been a change in ownership of the subject property and the subject property no longer qualifies as contiguous property under Rule 42.20.601, ARM which would allow the property to be classified as non-qualified agricultural property.

The Taxpayers submitted evidence showing the two adjacent properties are owned by the same people and argues their property should be combined with the adjacent contiguous property and classified as non-qualifying agricultural land as it had been through the last reappraisal cycle. (FOF 10.)

The evidence demonstrates that technically the subject property is owned by Shannon Wadsworth and Madonna Moosman Revocable Trust and the adjacent property is owned by Shannon Wadsworth and Madonna Moosman. (FOF 12.) The Board concludes the identity of ownership of the

two contiguous properties satisfies the ownership requirements contemplated by the §15-7-202 MCA, and may qualify to be classified as non-qualifying agricultural land pursuant to §15-6-133 MCA, and accompanying administrative rules. The issue, however, is moot since the Department may make a market value determination for each one-acre area beneath each residence(s) which is located on nonqualified agricultural land. Rule 42.20.655(2), ARM. By administrative rule, the Department sets the market value for the area of each residence to be consistent with the surrounding suburban land. Rule 42.20.655(2), ARM.

The DOR's CALP computed the market value for the subject property of \$27,031 based on the surrounding suburban land, and the Taxpayers submitted no evidence to dispute that value.

Thus it is the opinion of this Board that the assessed value set by the DOR is correct and the decision of the Cascade 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 land value shall be entered on the tax rolls of Cascade County at a 2009 tax year value of \$27,031 as determined by the Department of Revenue and affirmed by the Cascade County Tax Appeal Board.

Dated this 29th of July, 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 t his Order.

