

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

WADSWORTH LTD,)	
)	DOCKET NO.: PT-2009-32
)	
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

Wadsworth LTD (Taxpayer) 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 3415 4th Avenue North, Section 05, Township 20N, Range 04E, Block 016, Lot 011, of the City of Great Falls, Cascade County, State of Montana. The Taxpayer argues the DOR overvalued the improvements on the property for tax purposes, and he seeks a reduction in value assigned by the DOR. At the State Tax Appeal Board (Board) hearing held on June 22, 2010, the Taxpayer was represented by Shannon Wadsworth, owner and licensed appraiser who provided testimony and evidence in support of the appeal. The DOR, represented by Michele Crepeau, Tax Counsel; Joan Vining, Area Manager and Greg Newman, DOR commercial and residential appraiser, presented testimony and evidence in opposition to the appeal.

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

Issue

The issue before this Board is did the Department of Revenue determine an appropriate market value for the improvements on the subject property for tax year 2009?

Summary

Wadsworth LTD is the Taxpayer in this proceeding and, therefore, has 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 has the following legal description:
3415 4th Avenue North, Section 05, Township 20N, Range 04E, Block 016, lot 011, of the City of Great Falls, Cascade County, State of Montana. (Exh. A.)
3. For tax year 2009, the DOR appraised the subject property at a value of \$65,680: a land value of \$29,100 and improvements valued at \$36,580. (Exh. A, Newman Testimony.)
4. During the hearing the Taxpayer agreed with the \$29,100 appraised value of the land. (Wadsworth Testimony.)
5. The DOR used the cost approach to value the subject property improvements for the July 1, 2008 appraisal date. (Exh. A.)
6. The subject property is a single family dwelling used as a rental unit. This dwelling was built in 1900 and the Taxpayer has owned the property for approximately 30 years. (Wadsworth Testimony.)

7. The Taxpayer is asking for the improvement value to be lowered from \$36,580 to \$28,650. (Appeal Form.)
8. In this instance, the DOR appraiser set the effective year of the building to 1960. The building was built in 1900 and Newman testified he used appraisal judgment and professional opinion when assigning the effective year. (Exh. A, Newman Testimony.)
9. The Taxpayer claims the DOR falsified the record when assigning the effective year of 1960 to the subject property. He referred to the DOR's appraisal manual as evidence that the effective age is wrong. The manual states the effective age is the date of the last extensive remodel. The Taxpayer does not believe there has ever been any extensive remodeling done. (Exh. 1, Wadsworth Testimony.)
10. The Taxpayer also testified the subject property did have standard running water, toilet and kitchen, which were additions to the house after 1900. (Wadsworth Testimony.)
11. The DOR believes the average useful life expectancy of a dwelling, which has not been maintained, is 60 years. (Newman Testimony.)
12. The DOR appraiser assigned a grade factor 4 to the improvements and felt this was an appropriate grade as of the appraisal date of July 1, 2008. (Newman Testimony.)
13. Grade factor 4 is defined in the DOR's Appraisal Manual as fair quality. It further defines it as: "Residences are of fair quality construction built with average materials and workmanship. These houses will meet minimum building codes and construction requirements of lending institutions and mortgage insuring agencies." (Montana Appraisal Manual.)

14. The Taxpayer filed a Request for Informal Review (AB-26). The DOR did not make any adjustments to the subject property during this process. (Appeal Form.)
15. The Taxpayers filed an appeal with the Cascade County Tax Appeal Board (CTAB) on November 26, 2009 stating: “Land value incorrect. Age is wrong.” (Appeal Form.)
16. The Cascade CTAB heard the appeal on February 10, 2010, the CTAB disapproved the appeal stating: “At the time of the hearing, Dept. of Revenue cited §15-7-139(7), MCA, for lack of admittance to the property. The hearing was stopped and the appeal rights have been terminated.” (Appeal Form.)
17. The Taxpayer appealed to this Board on March 7, 2010, stating: “Deny access charges. Age is wrong. Value is out of line. Access is to be granted by renter. Did not ask Renter for access.” (Appeal Form.)
18. The State Tax Appeal Board granted the taxpayer the right to appeal after the taxpayer argued that he did grant access rights to the department to enter the property.
19. During the hearing before the State Tax Appeal Board, there was no additional discussion or argument relating to access of the subject property.

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. The appraised value supported by the most defensible valuation information serves as the value for ad valorem tax purposes. (ARM 42.18.110(12).)
5. 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 valuation for the subject property improvements for tax year 2009.

As a general rule, the appraisal of 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 Department may use different approaches (for example, market, income, and/or cost approaches), depending on available data, to appraise a property. *See, e.g., Albright v. Montana Department of Revenue*, 281 Mont. 196, 933 P.2d 815 (1997).

Given the statutory definition of market value, *i.e.*, the value at which property would change hands between a willing buyer and a willing seller, the “market” approach using comparable sales is the preferred approach in valuing

residential property when adequate data is available. In this case the DOR did not feel they had adequate comparable sales to accurately value the subject property, so they relied on the cost approach to value. (FOF 5.)

The Taxpayer's only argument is that his property was built in 1900 and the DOR assigned an effective year of 1960 to the property. He maintains that no significant remodeling has been done to justify the 1960 effective year. He also testified, however, that the subject property did have standard running water, toilet and kitchen, which were additions to the house after 1900.

The DOR argues the property is still being used as a rental dwelling and must have had some improvements over the years for it to still be livable. They contend these improvements have extended the life expectancy of the dwelling. They also contend the definition of a grade 4 structure properly reflects the subject property's condition. (FOF 12.)

The DOR has determined the average useful life expectancy of a dwelling which has not been maintained is 60 years. (FOF 11.) Thus, by placing the effective year of 1960 on this dwelling, the Department has determined that the property has used up 48 of those useful years as of the appraisal date. This recognizes the deferred maintenance not yet performed on the property. We agree that a dwelling must have some useful life to be rentable, still supply the renter with a home that meets the minimum standards for habitability and provide a landlord with a steady stream of income. We conclude that Taxpayer's argument must fail.

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 property value shall be entered on the tax rolls of Cascade County at a 2009 tax year value of \$65,680 as determined by the Department of Revenue and affirmed by the Cascade County Tax Appeal Board.

Dated this 2nd 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.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6th day of July, 2010, the foregoing 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:

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