

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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MARLIN W. & RUTH A. WILKE,	)	
Appellant,	)	DOCKET NO.: PT-1997-79
	)	
-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>

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The above-entitled appeal was heard on December 7, 1998, in the City of Great Falls, 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, Marlin Wilke, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Therese Williams, residential appraiser, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received, and 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, 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 3, Block 2, Sun River Park Garden Tracts, Butte, County of Cascade, State of Montana and improvements located thereon. (DOR ID number 2259700).

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$11,620 for the land and \$159,420 for improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board on December 4, 1997 requesting a reduction in value to \$10,000 for the land and \$135,000 for the improvements.

5. In its January 15, 1998 decision, the county board adjusted the value, stating:

*After hearing testimony and reviewing exhibits, the Board feels the main house should be reduced \$2,500 due to the age difference of the basement and house itself. The mobile home and first rental house remain the same with the non-livable house being reduced to a flat value of \$10,000 due to cond. The total bldg. Value is \$148,840.00 with the land at \$11,620.00.*

6. The taxpayer then appealed that decision to this Board on February 3, 1998, stating:

*Value placed is high for this acre. Similar houses (properties) at +\$100,000 are not selling.*

7. The DOR did not appeal the Cascade County Tax Appeal Board's decision.

TAXPAYER'S CONTENTIONS

Mr. Wilke stated at the onset of his direct testimony that the appeal on the land is withdrawn.

Taxpayers exhibit #1 is the 1996 assessment notice. Summarized, this exhibit illustrates the following:

	<u>1995 Market Value</u>	<u>1996 Market Value</u>
Tract Land	\$10,680	\$ 10,680
Rural Land Imps	\$83,880	\$ 95,170
Mobile Homes	<u>\$ 2,540</u>	<u>\$ 0</u>
Total	<u>\$97,100</u>	<u>\$105,850</u>

Taxpayers exhibit #2 is a revised 1997 assessment notice dated 11/17/97. Summarized, this exhibit illustrates the following:

	<u>1996 Value Before Reappraisal</u>	<u>1997 Reappraisal Value</u>
Tract Land	\$ 10,680	\$ 11,620
Rural Land Imps	<u>\$108,008*</u>	<u>\$159,420</u>
Total	<u>\$118,688</u>	<u>\$171,040</u>

If your 1996 value before reappraisal is followed by an asterisk (\*), it has been adjusted to reflect property changes such as new construction or destruction.

Mr. Wilke requested an explanation from the DOR in Cascade County as well as the DOR in Helena as to why the Value Before Reappraisal (VBR) had been changed, but no one was able to offer an explanation. Mr. Wilke testified there has been no change to the subject property with respect to new

construction.

Mr. Wilke testified he arrived at his requested value of \$135,000 from sales and listings of comparable properties. Taxpayers exhibit #4 is a realtors listing of a property for \$146,900. This property sold for \$130,500 and is a superior property overall to the subject.

Mr. Wilke indicated the market in the immediate area of his property is somewhat depressed.

Mr. Wilke testified that in his opinion the value of the mobile home is \$4,000, the rental house \$18,440, the storage structure \$6,000 and the main house at \$90,000.

#### DOR'S CONTENTIONS

The DOR has determined the market value of the subject property by means of the cost approach. This approach was employed because this property has multiple structures; therefore, attempting to market model this property would not result in an appropriate indication of value.

The DOR's property record card(s) for the 1997 reappraisal illustrate the following (exhibit A):

<u>Structure</u>	<u>1997 DOR Market Value</u>
Dwelling - Main Residence	\$117,020
Mobile Home	\$ 5,880
Dwelling - Rental House	\$ 18,440
<u>Dwelling - Storage House</u>	<u>\$ 18,080</u>
Total	\$159,420

The subject property costs have been modified by the application of an Economic Condition Factor (ECF). The costs for

the three dwellings have been modified by an ECF of 123% and the mobile home costs were modified by 105%. Ms. Williams testified to the ECF as "...it is the final step in the cost approach to ensure the estimated values are consistent with the market. It is important in the cost approach separating estimates of land and building values (unintelligible) which reflect only the supply side of the market..."

Ms. Williams indicated the subject is located in "neighborhood #9", which is an area that consists of a four and a half mile radius of the whole city of Great Fall. She also stated that "this is a very diverse area of homes from \$10,000 to \$1,000,000".

Ms. Williams testified to one sale that consisted of multiple dwellings. This property sold for \$107,500 in 1996.

Ms. Williams indicated the reason for the change in the market value from 1995 to 1996 may have been a result of the mobile home changing from a personal property assessment to a real property assessment.

Ms. Williams indicated the total 1996 VBR for tax year 1997 is listed on the assessment rolls at \$105,850, not the \$118,688 as illustrated on exhibit #2.

#### BOARD'S DISCUSSION

The issue regarding the change in the VBR has been addressed by the DOR. Based on the evidence and testimony, the correct VBR for the subject property is \$105,850.

It is not apparent to the Board as to what warranted the change in value from 1995 to 1996. The taxpayer did not appeal that change; therefore, this Board has no jurisdiction to modify the 1996 value.

The DOR original value indications for the various structures and the changes made by the county tax appeal board are as follows:

<u>Structure</u>	<u>1997 DOR Market Value</u>	<u>CTAB Value</u>
Dwelling - Main Residence	\$117,020	\$114,520
Mobile Home	\$ 5,880	\$ 5,880
Dwelling - Rental House	\$ 18,440	\$ 18,440
<u>Dwelling - Storage House</u>	<u>\$ 18,080</u>	<u>\$ 10,000</u>
Total	\$159,420	\$148,840

The parties were in general agreement concerning the physical description and characteristics of the improvements.

The record indicates that there remains only one issue that is causing the disparity in value between the CTAB value indications and what the taxpayer believes the values to be.

The entire neighborhood, a large area surrounding the Great Falls area, is used in the determination of the ECF that has been applied to the subject property. That includes sales of properties that may be on one acre, or five acres, or a residential tract size lot. The subject consists of multiple structures and there was no evidence presented to support the DOR's determination of ECF's of 123% or 105%.

The ECF is a market adjustment factor. The International Association of Assessing Officers (IAAO) states:

Market adjustment factors are often required to adjust values obtained from the cost approach to the market. These adjustments should be applied by type of property and area based on sales ratio studies or other market analyses. Accurate cost schedules, condition ratings, and depreciation schedules will minimize the need for market adjustment factors. (IAAO, 1990, Property Appraisal and Assessment Administration, pages 311-312)(Emphasis applied)

Land values are not considered, because the factor is only applied to improvements valued by the cost approach.

An ECF for a neighborhood is derived from sales; but as previously stated, there was no evidence or testimony from the DOR to indicate the ECF applied was developed from sales of properties of the same type. It follows, therefore, that the ECF ought to be removed.

#### 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. **15-2-301, MCA, Appeal of county tax appeal board decisions.** (4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of



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 Cascade County by the Assessor of that county at the 1997 tax year value with the removal of the Economic Condition Factors of 123% and 105% based on the County Boards value indications. The appeal of the taxpayer is therefore granted in part and denied in part and the decision of the Cascade County Tax Appeal Board is modified.

Dated this 25th of January, 1998.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

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PATRICK E. MCKELVEY, Chairman

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GREGORY A. THORNQUIST, Member

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