

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

JANEL M. WOODWORTH,)	
)	DOCKET NO.: PT-2009-88
)	
Appellant,)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,)	FOR JUDICIAL REVIEW
)	
Respondent.)	

Statement of Case

Janel M. Woodworth (Taxpayer) appealed a decision of the Lake County Tax Appeal Board (CTAB) relating to the Department of Revenue's (DOR) valuation of her property identified as Section 03, Township 23N, Range 20W, Block 4, Lot 003, TR A-1 Amend Plat Tr A AMD PLT LTS 3-4 BLK 4, Safety Bay Villa Site, a major subdivision of Lake County, State of Montana. The Taxpayer argues the DOR overvalued the property for tax purposes, and she seeks a reduction in value assigned by the DOR. The matter was heard before the State Tax Appeal Board on the record.

The Board having fully considered the testimony and exhibits from the record made before the Lake County Tax Appeal Board and all matters presented to this Board, finds and concludes the following:

Issue

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

Summary

Janel M. Woodworth 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 Lake County Tax Appeal Board.

Findings of Fact

1. Due, proper and sufficient notice was given of this matter. Both parties were afforded the opportunity to submit additional written statements to the Board.
2. The subject property is described as Section 03, Township 23N, Range 20W, Block 4, Lot 003, TR A-1 Amend Plat Tr A AMD PLT LTS 3-4 BLK 4, Safety Bay Villa Site, a major subdivision of Lake County, State of Montana. The property consists of 2.5 acres of Flathead lakefront with the only improvements being a dock and a deck. (CTAB Exh. B.)
3. The Taxpayer represented herself at the Lake CTAB hearing, along with her father Joe Woodworth. (CTAB Sign-in Sheet.)
4. The DOR was represented at the CTAB hearing by Monty Simonson and Jim Bach, DOR Appraisers. (CTAB Sign-in Sheet.)
5. For tax year 2009, the DOR originally appraised the subject property at a value of \$781,255 (a land value of \$770,386 and improvements valued at \$10,869. (Appeal Form and CTAB Exh. B.)
6. The DOR used the cost approach to value the improvements and comparable sales of properties for the land, as of the July 1, 2008 appraisal date. (CTAB Exhs. B & C.)
7. The DOR based land market values for the current appraisal cycle on three abstracted property sales which took place between December 29, 2006 and June 12, 2007. The characteristics of the sales properties are compared to the characteristics of the subject property to select those

- properties most comparable to the subject. The market value of the subject is then based on these comparable sales, after adjustments, to make the comparable properties conform to the subject. (Simonson CTAB Testimony, Exh. C.)
8. The Taxpayer argued for a value of \$465,600: \$460,000 for the land and \$5,600 for the improvements. (Janel Woodworth CTAB Testimony, Appeal Form, 1/21/10.)
 9. The Taxpayer filed a Request for Informal Review (AB-26) on September 24, 2009. During the AB-26 process, the DOR made no adjustment to the value of the subject property. (Exh. B.)
 10. The Taxpayer filed an appeal with the Lake CTAB on January 21, 2010. (Appeal Form.)
 11. The Lake CTAB heard the appeal on May 27, 2010, and reduced the DOR value of the land to \$610,000, based on two easements, for roads, running across the subject property. (Appeal Form attachment.)
 12. The Taxpayer appealed to this Board on June 15, 2010, stating: "I do not feel that the assessment is fair because of 2 easement roads cross my property plus it is very steep incline on my property. Please review my case." (Appeal Form.)
 13. The Taxpayer submitted an appraisal completed by Erickson's Evaluations on February 21, 2010 which set the value of the subject property at \$425,000. (Woodworth CTAB Testimony, Exh 1.)

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. For the taxable years from January 1, 2009, through December 31, 2014, all class four property must be appraised at its market value as of July 1, 2008. (ARM 42.18.124(b).)
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 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 appraised the subject property using standard methodologies, including comparable sales and cost analysis, to determine market value. See FOF 6&7. We find no substantial errors in the Department's valuation.

Further, we find that the Taxpayer failed to provide any evidence that the value set by the Department is not market value. The Taxpayer attempts to

justify her requested value of \$465,600 by having Judy Erickson of Erickson's Evaluation complete an appraisal of the subject property. Erickson's appraisal concluded that the market value as of February 21, 2010 was \$425,000. All taxable class four properties in Montana, however, must be appraised at its market value as of July 1, 2008 for the current appraisal cycle. This Board cannot consider evidence of valuation from after the lien date set by statute. (*see* POL 4.) Property values fluctuate with the economic climate and the only way to achieve statewide equalization is to use the same date for all properties being valued. Thus, all taxpayers experience the same increase or decrease and share the tax burden equally. Therefore we cannot consider Taxpayer's appraisal as it is well after the lien-date in question.

The Taxpayer also argues that the only improvements on the property are decks and a dock which were built by her own labor and only have a material value of \$5,600. The Board has no reason to dispute the material value of the deck and dock. The question, however, is how to set the market value for the improvements. Thus, the cost or sweat equity of the Taxpayer is not at issue, but rather, what value would a willing buyer and seller set to those improvements. We see no indication that the Department of Revenue has incorrectly valued the improvements.

This Board concludes the evidence presented by the DOR did support the values assessed. This Board also concludes the Taxpayer has not provided evidence that the DOR appraised value for July 1, 2008 is incorrect.

Thus it is the opinion of this Board that the assessed value set by the DOR is correct and modified by the Lake 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 Lake County at a 2009 tax year value of \$620,869 as determined by the Department of Revenue and modified by the Lake County Tax Appeal Board.

Dated this 13th of September, 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 this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of September, 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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/s/ _____
DONNA EUBANK
Paralegal