

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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JUNE K. GESSAMAN,	)	
	)	DOCKET NO.: PT-2003-11
Appellants,	)	
	)	
-vs-	)	FACTUAL BACKGROUND,
	)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE	)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,	)	<u>FOR JUDICIAL REVIEW</u>
	)	
Respondent.	)	

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The above-entitled appeal was heard on May 10, 2004, 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 duly given as required by law.

Ronald Gessaman, presented testimony on behalf of the taxpayer in support of the appeal. The Department of Revenue (DOR), represented by Marlyann Lawson and Greg Newman, Appraisers, presented testimony in opposition to the appeal.

The duty of the Board is to determine the market value of the taxpayer's property based on the preponderance of the evidence. The State of Montana defines "market value" as **MCA §15-8-111. Assessment - market value standard - exceptions.**

*(1) All taxable property must be assessed at 100% of its market value except as otherwise provided. (2) (a) Market*

*value is a 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 a reasonable knowledge of relevant facts.*

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)).

Based on the evidence and testimony, the Board finds that the appeal of the taxpayer shall be granted in part and denied in part and the decision of the Cascade County Tax Appeal Board shall be modified.

#### 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:

Improvements only located on Lot 8, Block 11, Boston & Great Falls Addition, Great Falls, Cascade County, State of Montana. Street address of 3625 5<sup>th</sup> Avenue North. (Assessor ID number 475200).

3. For the 2003 tax year, the DOR appraised the subject improvements at \$84,850.
4. The taxpayers appealed the DOR's value to the Cascade County Tax Appeal Board (County Board) citing the following reasons for the appeal, and requesting the improvements be valued at \$62,330:

*The DOR changed the physical characteristics of the improvements for this reappraisal. There have been no changes to the property since 1996 to justify such changes - except its age.*

5. In its October 22, 2003 decision, the County Board denied the taxpayers' appeal.
6. The taxpayers then appealed the County Board's decision to this Board on November 17, 2003.

**STATEMENT OF THE ISSUE**

The issue before the Board is the market value of the subject improvements as of January 1, 2002, the base appraisal date for the current appraisal cycle.

**TAXPAYER'S CONTENTIONS**

The taxpayer requests this Board modify the DOR's appraisal of the residence to be consistent with a previous Board decision, PT-1997-16.

Summarized, Taxpayer Exhibit T-4 illustrates the changes the DOR made to the property record card (PRC) for the current appraisal cycle:

	<b>PRC for 96 Reappraisal</b>	<b>Post 97 CTAB</b>	<b>Post 99 STAB</b>	<b>PRC for 2002 Reappraisal</b>	<b>Actual per Owner</b>
Bsmt (sf)	925	925	925	925	904
1 <sup>st</sup> (total inc. additions)(sf)	1165	1165	1165	1165	1144
Basement (type/finished sf/quality)	Reg/463/3-typ	Reg/463/3-typ	Reg/463/3-typ	Reg/463/3-typ	Reg/463/2-fair
Eff. Year	1980	1980	1980	1980	1967
Physical – House/Garage	5=Good/Avg	5=Good/Avg	4=Avg/Avg	5=Good/Avg	4=Avg/Avg
Grade – House/Garage	4+=90% 5=100%	4+=90% 5=100%	4+=90% 4=85%	5100% 5=100%	4=85% 4=85%
CDU	GD	GD	AVG	GD	FR
Appraisal - Land	11,250	11,250	11,250	18,750	18,750
Appraisal – Bldgs	72,250	70,550	63,550	84,850	62,330
Appraisal Total	83,500	81,800	74,800	103,600	81,080

**DOR'S CONTENTIONS**

The DOR testified that the market approach or sales comparison approach was used to value the subject property. DOR Exhibit C illustrates the five comparable properties that sold during the time the DOR was collecting data for the current appraisal cycle. The following illustrates the pertinent data:

	Subject	Comp 1	Comp 2	Comp 3	Comp 4	Comp 5
Bedrooms	2	5	5	3	3	3
Bathrooms	1	2	2	2	2	2
Year Built/Eff. Yr	1962/1980	1955/1980	1954/1980	1958/1985	1957/1980	1960/1975
Quality Grade	5	5	5	5	5	5
CDU	GD	GD	GD	GD	GD	GD
Sale Date		2/2001	4/2001	4/2001	4/2000	8/2000
Sale Price		\$115,000	\$115,000	\$104,000	\$106,000	\$102,100
Adjusted Sale		\$103,708	\$104,130	\$102,998	\$100,073	\$110,071
Comparability		13	15	27	28	30
Weighted Estimate	\$104,128					
Market Value	\$103,600					
Indicator	1					

The DOR testified that there are indicators on the document that suggest to the appraiser that whether or not sales selected by the computer is accurately estimating market value. The first is the "Comparability" numbers. These range from 13 to 30. There is a higher degree of confidence when the number is low, as is the case with this property. The second is the "Indicator". It is 1 and this indicates a less than 5% adjustment to the comparables. It is the DOR's opinion that the market modeling for this property was achieved, and the market value for the property is \$103,600 (land - \$18,750 & improvements - \$84,850).

**BOARD DISCUSSION**

In 1997, subsequent to an appeal filed by the Taxpayer, the County Board reduced the "Quality Grade" of the residence from a 5 (average) to a 4 (fair). The DOR did not appeal that decision to this Board. The Taxpayer did appeal to this Board requesting a further reduction in the market value. The Board

heard that appeal on April 21, 1999 and ordered the DOR amend its appraisal. Summarized, the "Order" stated:

"...Department of Revenue shall change the grade of the residence to a four and change the physical condition and CDU to an average. The DOR shall re-market model the property and enter the value on the tax rolls of Cascade County by the Assessor of that county for tax year 1997.

The taxpayer for the current appeal requested that this Board order the DOR to do what it was ordered to do in 1999. For the current appeal, there was nothing presented to suggest that the "Quality Grade" should have increased from a 4 to a 5. In addition, nothing was presented to suggest that the physical condition and CDU changed. The Board does recognize that a property could be physically altered in a way that would require modification to some of the components denoted on the appraisal. The Board was not presented with any compelling information to suggest that its 1999 decision warrants changes for the current appraisal cycle.

#### 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 evidence or rules of discovery and may affirm, reverse, or modify any decision.

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)).

5. The Board finds that the evidence presented supports its conclusion that the decision of the Cascade County Tax Appeal Board be modified.

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**ORDER**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject residence be identified on the property record card with a quality grade of 4, and the physical condition and CDU reflect an average indication. The local Department of Revenue office shall enter these changes on the tax rolls of Cascade County.

DATED this 28th day of May, 2004.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

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GREGORY A. THORNQUIST, Chairman

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JEREANN NELSON, Member

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JOE R. ROBERTS, 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 May, 2004, 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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Great Falls, Montana 59401-2207

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Department of Revenue  
Mitchell Building  
Helena, Montana 59620

Appraisal Office  
Cascade County  
300 Central Avenue  
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Great Falls, Montana 59401

Nick Lazanas  
Cascade County Tax Appeal Board  
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DONNA EUBANK  
Paralegal