

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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GREG PEKOVICH, )  
 ) DOCKET NOS.: PT-2003-43 & 44  
 )  
Appellant, ) FACTUAL BACKGROUND,  
 ) CONCLUSIONS OF LAW,  
-vs- ) ORDER and OPPORTUNITY  
 ) FOR JUDICIAL REVIEW  
THE DEPARTMENT OF REVENUE )  
OF THE STATE OF MONTANA, )  
 )  
Respondent. )  
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The above-entitled appeals were heard on October 27, 2004, in Billings, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (Board). The notice of the hearing was duly given as required by law. The taxpayer was represented at the hearing by Chuck Morgan, agent, and Greg Pekovich, owner. Appraisers Genia Mollett and Vicki Nelson represented the Department of Revenue (DOR).

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. By statute (15-2-301, MCA) this Board may affirm, reverse or modify any decision rendered by the county tax appeal board. Testimony was taken from both the taxpayer and the Department of Revenue, and exhibits from both parties were received.

Based on the evidence and testimony, the Board upholds the decision of the Yellowstone County Tax Appeal Board.

**FACTUAL BACKGROUND**

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.
2. The subject properties are described as follows:
  - PT-2003-43:** 32 mobile homes located in Gauger's mobile home court, geocode 0927-08-4-02-12-0000 (master), City of Billings, County of Yellowstone, State of Montana.
  - PT-2003-44:** 24 mobile homes located in Long Branch mobile home court, geocode 1136-08-2-03-01-0000 (master), City of Billings, County of Yellowstone, State of Montana.
3. For tax year 2003, the Department of Revenue appraised the mobile homes associated with the Gauger mobile home court (PT-2003-43) at a value of \$144,980 and the mobile homes associated with the Long Branch mobile home court (PT-2003-44) at a value of \$122,150.
4. The taxpayer filed appeals with the Yellowstone County Tax Appeal Board on September 30, 2003. The land value was not disputed. A reduction of approximately 50 percent was requested in the total value of the subject mobile homes, citing the following reasons for appeal:

These mobile homes are valued at 53% above market value.

5. In its December 19, 2003 decisions, the county board denied the taxpayer's appeals, stating:

In testimony given, the board feels there were some values not presented today. Because of the inequities and not knowing the total values this board denies this appeal.

6. The taxpayer then appealed these decisions to this Board on January 5, 2004, citing the following reasons for appeal:

PT-2003-43: All the mobile homes situated on this court have increased appraised values, established by the DOR, up 49% from the last cycle. These are older vintage mobile homes, being rented, that have depreciated, if anything.

PT-2003-44: The appraised value by the DOR is 53% higher than the actual purchase prices of several of these mobile homes.

#### **TAXPAYER'S CONTENTIONS**

The taxpayer is asking for an approximate 50 percent reduction from the DOR's appraisal of the subject 56 mobile homes. This reduction is in recognition of actual sales data versus DOR appraised values pertinent to mobile homes purchased in the Long Branch mobile home court (an average disparity of 53% between purchase price and DOR value). The DOR appraised value data shows that the mobile home values in the Gauger court increased by an average of 49.68 percent between tax years 2002 and 2003.

Taxpayer's Exhibits 1 and 3, PT-2003-44 (Long Branch mobile home court), is a compilation of data pertinent to nine mobile homes that Mr. Pekovich purchased:

Assessor Code	Space number	DOR value	Purchase price	Make	Vendor
1008272	5	\$7,870	\$4,800	'77 Chickasha	Oakland Homes
1003872	15	\$5,670	\$1,500	'75 Bendix	Centennial Homes
1002112	16	\$4,710	\$1,300	'73 Western	BigSky Mobile Homes
1002909	17	\$5,290	\$2,000	'75 Bonnavilla	Oakland Homes
1006274	18	\$12,180	\$2,000	'84 Fleetwood	Centennial Homes
1009377	19	\$6,510	\$6,000	'75 Gallatin	New Vision Homes
1003868	20	\$6,340	\$6,500	'85 Gallatin	Centennial Homes
1007945	21	\$6,330	\$1,500	'74 Chickasha	Country Homes
1008349	24	\$6,080	\$3,500	'75 Regal	Country Homes
<b>Total</b>		\$60,980	\$29,100	Valued 53% over Purchase Price	

Taxpayer's Exhibit 2, PT-2003-43 (Gauger's mobile home court), is a compilation of data pertinent to the difference in appraised values between tax years 2002 and 2003 for 32 mobile homes in this court. According to Mr. Morgan, the average increase between the two tax years was 49.68 percent. These are vintage mobile homes that are being rented. Therefore, they should depreciate, not appreciate as time goes by. The DOR should consider the actual sales price of the mobile homes should be considered, as it does for single-family residences. Failure to do so has created an inequity between taxpayers.

Mr. Pekovich stated that he purchased Gauger's mobile home court, and the mobile homes, in September of 2002 for \$1,500 per mobile home. The total purchase price was \$700,000, of which Mr. Pekovich allocated \$160,000 to personal property (which would include the mobile homes, compressors, etc.)

### DOR'S CONTENTIONS

DOR Exhibits A and A-1 contain a listing of the make, model, year of manufacture, unit number, size, quality grade, CDU, appraised value, geocode, and tax code for each of the mobile homes in the Long Branch and Gauger mobile home courts, as well as photographs of all of the units.

Ms. Mollett stated that the DOR's methodology for valuing mobile homes is to first review the mobile home itself. The DOR appraisal manuals contain a basic quality grade that is associated with the model, size and year that the mobile home was constructed. Most of the subject mobile homes have been assigned a low quality grade, primarily due to the year built. For the CDU (condition, desirability and utility), the DOR looks at the condition of the individual mobile home, its age, and its utility (size). Some of the mobile homes in the Long Branch mobile home court have been assigned a CDU of "unsound" and "poor" and "very poor". All of the mobile homes in the Gauger mobile home court have been assigned a "poor" CDU. Ms. Mollett feels that a CDU of "poor" is very reasonable considering the fact that both of the subject mobile home courts have an extremely low vacancy rate.

The DOR did analyze 200 sales of mobile homes, however, it did not consider this number to be adequate to undertake a comparable

sales approach to value. The DOR, therefore, chose not to use a market approach on any mobile homes and it does not use the income approach on mobile homes. Therefore, a determination was made to use replacement cost new less depreciation to value the homes.

DOR Exhibit B contains information from the Mobile Home Listing and Sales web page, dated 10/26/04, concerning two mobile homes for sale that would need to be moved: a two bedroom, two bath 1984 Friendship mobile home listed for \$19,900 (14' X 70' with 7' X 22' tipout), and a two bedroom, two bath 1975 Gallatin mobile home listed for \$10,500 (14' X 70'). The DOR has appraised the 1975 Gallatin at \$6,040. Ms. Mollett stated that she is not implying that it will sell for \$10,500, but it is an indication of what the seller thinks it's worth.

Ms. Mollett testified that the DOR was not able to determine that the purchases of some of the subject mobile homes (Taxpayer's Exhibits 1 and 3) were arm's-length transactions.

#### **BOARD'S DISCUSSION**

The Board asked the DOR to provide, as a post-hearing submission, a copy of the property record cards for the two mobile home courts at issue here. This information was received in a timely manner. In addition, Ms. Mollett provided sales information for both the Gauger mobile home court under appeal and the Pine

Hill mobile home court, not under appeal, but recently sold by Mr. Pekovich.

The Board notes that the DOR's commercial sales verification form, completed by Mr. Pekovich, allocates \$160,000 of the \$700,000 he paid for the Gauger court on September 15, 2002, to the subject 32 mobile homes in that court. This works out to \$5,000 per mobile, not the \$1,500 per mobile per the taxpayer's testimony. This sales verification form is an admission of value put forth by the taxpayer. The mobile home court is an income producing property and was purchased for its ability to generate income. For this mobile home court, the taxpayer owns the mobile homes as well as the real estate. The real property, land, three commercial structures, court improvements, and mobiles are taxed as Class 4 property pursuant to MCA §15-6-134. The DOR's total value for the individual mobiles is \$144,980. Because these mobiles are not affixed to the real estate, they are assessed separately. Based upon the purchase price of \$700,000, and the taxpayer's assignment of value to the mobile homes, the discrepancy in market value appears to be with the real estate as noted below:

	<u>Taxpayer</u>		<u>DOR</u>
Date of Purchase	September 2002	Date of Value	January 2002
Purchase Price	\$700,000	Total Market Value	\$831,780
Less: Value for Mobiles	<u>(\$160,000)</u>	Less: Value for Mobiles	<u>(\$144,980)</u>
Value of Real Estate	\$560,000	Value of Real Estate	\$686,800

The taxpayer did not appeal the DOR's value determination of the real estate, but, based upon the evidence for the Gauger Court (PT-2003-43), the taxpayer may consider reviewing the DOR's appraisal.

For the appraisal of the mobiles located at the Long Branch Court (PT-2003-44), the DOR appraised 23 mobile homes. one of which is identified as storage only. The total value for the mobiles as determined by the DOR is \$122,150 (DOR Exh. A). Taxpayer's Exhibit #1 lists nine mobiles purchased from various vendors and located at the Long Branch Court. This exhibit illustrates that the DOR's values exceed what was actually paid for the individual mobiles. Mr. Pekovich testified that the purchase price illustrated on Exhibit #1 includes the cost of delivery. Additional charges are incurred for setup, materials and labor, which would amount to approximately \$750.

The taxpayer testified that the mobiles rent for \$300 to \$500 per month, depending on the size, number of bedrooms and bathrooms.

Mr. Morgan testified that the DOR typically values mobile home courts based upon the income approach to value, exclusive of the mobiles. Mr. Morgan asserts that doing an income approach for the court, including the mobiles would create inconsistencies when comparing the appraisal methodology used by the DOR in valuing



single-family residences. The DOR utilizes the cost and sales comparison approaches, with greatest emphasis being placed on the sales comparison approach, when valuing single-family residences. The DOR does not value single-family residences based upon an income approach, regardless of the fact that many single-family residences are being utilized as rental property.

The mobile home court is an income producing property and the mobile homes are rented along with the real estate. The Board does not see that an income approach could not be utilized for an entire mobile home court, inclusive of the mobiles. The DOR could then deduct a portion of the value attributed to the individual mobiles in order to assign a value to the real property, land and court improvements. In this appeal, there are other structures that would have additional value but this is not an impossible task. This Board is always seeking the most supportable indication of market value; no matter what appraisal method is utilized. In fact, had an income approach been developed for this property it would offer a separate indication of value. In Albright v. Montana Department of Revenue, 281 Mont. 196,933 P.2d 815., the Court held that, "For the valuation of commercial property, CAMAS produces a cost estimate and, in some instances, an income estimate. The income approach to valuation is the preferred method of valuation

of commercial properties in Montana.” The DOR’s current appraisal methodology for this property is the cost approach. Based upon the DOR property record card (PRC) and the value of the individual mobiles, the total value for the property is:

Land & Buildings	\$353,120
Mobile Homes	<u>\$122,150</u>
Total Value	\$475,270

The taxpayer’s argument that the price paid for the individual mobile home from the vendor is the best indication of market value is not accurate. The Board does not dispute that what was paid for the individual mobiles is an indication of value, but, all costs associated with readying the mobile for use, such as, moving, licensing, setting up, hooking to utilities, remodeling, etc, need to be considered.

It is the Board’s opinion that there is insufficient market data in the record to suggest that the DOR’s value for the mobile homes is incorrect.

**CONCLUSION 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. 15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes: (g) (i) commercial buildings and the parcels of land upon which they are situated;
4. Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967).
5. Albright v. Montana Department of Revenue, 281 Mont. 196, 933 P.2d 815.
6. The appeal of the taxpayer is hereby denied and the decision of the Yellowstone County Tax Appeal Board is upheld.

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**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 Yellowstone County by the local Department of Revenue office at the values determined by the Department of Revenue

Dated this 10th day of March, 2005.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

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GREGORY A. THORNQUIST, Chairman

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JERE ANN 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 10<sup>th</sup> day of March, 2005, 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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