

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

JERRY T. RAY,)
) DOCKET NOS: PT-2003-68 & 69
)
Appellant,) FACTUAL BACKGROUND,
) CONCLUSIONS OF LAW,
-vs-) ORDER and OPPORTUNITY
) FOR JUDICIAL REVIEW
THE DEPARTMENT OF REVENUE)
OF THE STATE OF MONTANA,)
)
Respondent.)

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, Jerry T. Ray, appeared on his behalf. Commercial Appraiser Ron Halvorson 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.

This Board finds and concludes that the taxpayer successfully supported the contention that the DOR had erred in its appraisal and, therefore, grants the appeal. The decision of the Yellowstone County Tax Appeal Board is reversed.

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 property is described as follows:
 - PT-2003-68:** Land only described as Lot 3, Block 1, Lockwood Industrial Park Subdivision, Commercial Tract Land of 2.093 acres, County of Yellowstone, State of Montana (Assessor number: C132730).
 - PT-2003-69:** Land only described as Lot 4, Block 1, Lockwood Industrial Park Subdivision, Commercial Tract Land of 2.946 acres, County of Yellowstone, State of Montana (Assessor number: C13274).
3. For tax year 2003, the Department of Revenue appraised the subject land under docket number PT-2003-69 at a value of \$81,012 and the land under docket number PT-2003-68 at a value of \$59,090.

4. The taxpayer filed these appeals with the Yellowstone County Tax Appeal Board on November 12, 2003, seeking a value of \$73,146 for Lot 4 and \$51,967.52 for Lot 3.

The following reason was cited for the appeal:

I purchased these Lot 4 and Lot 3 for \$123,165 total. You valued both lots for \$140,102. \$16,937 more than I paid 4/2002.

5. In its December 20, 2003 decision, the county board denied the taxpayer's appeals, stating:

The Department of Revenue is correct in their appraisal. The Board denies this appeal.

6. The taxpayer then appealed these decisions to this Board on January 18, 2004, citing the following reason for appeal:

My 1031 tax deferred exchange set the value at \$123,165.

TAXPAYER'S CONTENTIONS

Mr. Ray stated that he owned a piece of property in Billings Heights that his neighbor wanted so there was a 1031 exchange between the neighbor and Mr. Ray. Mr. Ray was getting close to the end of the 45-day deadline to obtain another piece of property, under the terms of the 1031 exchange.

Mr. Ray talked to a realtor who knew of a five-acre tract for sale in the Lockwood Subdivision to Billings.

Mr. Ray obtained the Lockwood property for \$123,165 for both lots. He testified that he would not have purchased, and paid that price, for that property if he hadn't been under pressure on the 1031 exchange to acquire the property. Therefore, Mr. Ray feels that he paid too much for the property.

Mr. Ray spoke of the sale of a five-acre tract a few blocks away on the corner of Reynolds and Lockwood Road. This property sold for approximately \$100,000.

When Mr. Ray received an assessment for a value that was higher than his purchase price, he filed an appeal. He is seeking to have his purchase price in 2002 recognized as its market value for ad valorem tax purposes.

DOR'S CONTENTIONS

DOR Exhibit A contains copies of the appeal forms, the AB-26 filings for property review, a November 7, 2003 letter from Mr. Halvorson to Mr. Ray stated that no adjustments would be made as a result of the property review process, photographs and property records cards pertinent to the subject property, and a map showing the location of the

property.

DOR Exhibit B contains the land sales information used to arrive at the subject land value. Summarized, this exhibit highlights the following four land sales:

<u>Sale Date</u>	<u>Sale Price</u>	<u>Lot Size</u>
09/1996	\$125,000	6.983 acres
09/1997	\$185,000	9.175 acres
08/1997	\$38,000	1.650 acres
03/1997	\$105,000	5.520 acres

The accompanying map shows the location of these sales to be within the subject neighborhood 300C (Lockwood Commercial).

DOR sales data indicates an approximate eight percent annual appreciation in commercial land values between the date of the above sales and the DOR's lien date for the current appraisal cycle of January 1, 2003.

Based upon the above sales data, the DOR established a neighborhood land value of \$30,996 for the first acre, and the residual acreage valued at \$25,674 per acre. The adjusted sales prices per unit (adjusted for time) ranged from \$30,964 and \$25,347 per acre.

BOARD'S DISCUSSION

The Board notes that there are multiple factors to consider when analyzing comparable sales, i.e. conditions of

sale, time, location, size, etc. When there is insufficient sales data available, the appraiser must employ their best judgment. The DOR has made adjustments for time and size as indicated on Exhibit B. It is the Board's opinion that there is insufficient data to pin point a particular adjustment for time or size based upon the differences in the four sales. The sales data presented reflects the following:

Sale	Date	Price	Size (SF)	\$/SF	Size (AC)	\$/AC
1	Sep-96	\$125,000	304,179	\$0.41	6.983	\$17,901
2	Sep-97	\$185,000	399,663	\$0.46	9.175	\$20,163
3	Aug-97	\$38,000	71,874	\$0.53	1.650	\$23,030
4	Mar-97	\$105,000	240,451	\$0.44	5.520	\$19,022
Subject	Apr-02	\$123,165	219,499	\$0.56	5.039	\$24,442

In this case we have a transaction for the subject property that occurred within four months of the DOR's date of value, January 1, 2001. While the taxpayer asserts that he paid above market value due to time constraints, it's the Board's opinion that this assertion must be supported by market data.

Based upon the evidence presented, the best indication of value for these properties is the taxpayer's purchase price of \$123,165, or \$24,442 per acre.

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CONCLUSION OF LAW

1. This Board has jurisdiction over the matter under appeal pursuant Section 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. The appeals of the taxpayer are granted and the decisions of the Yellowstone County Tax Appeal Board are reversed.

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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 a land value of:

PT-2003-68	Lot 3	\$51,158
PT-2003-69	Lot 4	\$72,007

Dated this 25th day of February, 2005.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JERE ANN NELSON, Member

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 25th day of February, 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:

Jerry T. Ray
711 Central Avenue
Suite 108
Billings, Montana 59102

Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, MT 59620

Ms. Dorothy Thompson
Property Tax Assessment
Department of Revenue
Mitchell Building
Helena, Montana 59620

Mr. Elwood Hannah, Chairman
Yellowstone County Tax Appeal Board
2216 George Street
Billings, MT. 59102

Yellowstone County Appraisal Office
175 N. 27th St, Suite 1400
Billings, MT. 59107-5013

Donna Eubank
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