

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE)
OF THE STATE OF MONTANA,) DOCKET NO.: PT-2002-21
) PT-2002-22
)
Appellant,)
)
-vs-) FACTUAL BACKGROUND,
) CONCLUSIONS OF LAW,
) ORDER and OPPORTUNITY
AMERICAN TIMBER &) FOR JUDICIAL REVIEW
GLACIER GOLD, LLC)
)
Respondent,)

The State Tax Appeal Board heard this matter on December 1, 2004. Appellant, the Montana Department of Revenue ("DOR") appeared through counsel, Michelle Crepeau. Respondent, Glacier Gold, LLC, ("Taxpayers") appeared through its counsel, David B. Cotner of Datsopoulos, MacDonald & Lind, P.C.

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.

The Board modifies the decision of the Flathead County Tax Appeal Board (CTAB) based on the testimony and evidence presented.

FINDINGS OF FACT

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:

American Timber/Glacier Gold:

Section 18, TWN 320N, Range 230 West IMP 9 ON IN NE4NE4--Beneficial
Use State Lease 4402-18-1-01-10-0009.

Glacier Gold Compost:

Section 18 Township 320N, Range 230 West, IMP 1218 on State Land Lease
4402-18-1-01-10-1218

3. The following Tables are a summary of the values (Exh. 3 & 4):

American Timber	DOR Original Values	DOR's Adjusted Values (AB-26)	Taxpayer's Values	Flathead County Tax Appeal Board Values
Buildings/Imps	\$2,109,710	\$285,520	\$0	\$0
Personal Property	\$60,234	\$60,234	\$20,234	\$20,234
Land	\$286,000	\$136,000	\$115,524	\$115,524

Glacier Gold	DOR Original Values	DOR's Adjusted Values (AB-26)	Taxpayer's Values	Flathead County Tax Appeal Board Values
Buildings/Imps	\$1,163,700	\$802,230	\$125,000	\$125,000
Personal Property	\$882,032	\$882,032	\$100,000	\$100,000
Land	NA	NA	NA	NA

Total Property	DOR Original Values	DOR's Adjusted Values (AB-26)	Taxpayer's Values	Flathead County Tax Appeal Board Values
Buildings/Imps	\$3,273,410	\$1,087,750	\$125,000	\$125,000
Personal Property	\$942,266	\$942,266	\$120,234	\$120,234
Land	\$286,000	\$136,000	\$115,524	\$115,524

4. Taxpayers filed an appeal with the Flathead County Tax Appeal Board ("CTAB") on June 21, 2002, requesting a revised

assessment of the property and stating the following reasons for appeal:

The valuations used for assessment are quite high based on the value of the business and its related operations. It appears that the assessment has been based on a cost approach. Approved methodology for assessing property and business valuations considers approaches using various cost, market and income valuation methodologies for determining valuation. These methods must be considered and evaluated together.

5. In its December 18, 2002 decision, the CTAB reduced the DOR's value determination, as noted in Finding 3, for the following reasons:

Finds in favor of appellants (sic) and opts to use appellants' (sic) values because of lack of data to establish our own estimate of value. Decision based in part by DOR in calculation of acreage and absence of any economic obsolescence and of DOR not taking into consideration of purchase price by current owner.

6. The DOR appealed that decision to this Board on January 28, 2003.
7. The parties, for good reason, combined the subject properties for the purpose of this appeal to the State Tax Appeal Board.
8. American Timber and Glacier Gold's assets were acquired on May 25, 2001 (Taxpayer post-hearing brief)

DOR CONTENTIONS

It is the DOR's position that it properly appraised the subject property, and seeks to have this Board restore the AB-26 adjusted values:

American Timber	DOR's Adjusted Values (AB-26)	Glacier Gold	DOR's Adjusted Values (AB-26)	Total Property Value
Buildings/Imps	\$285,520	Buildings/Imps	\$802,230	\$1,087,750
Personal Property	\$60,234	Personal Property	\$882,032	\$942,266
Land	\$136,000	Land	NA	136,000

The DOR asserts that the CTAB failed to recognize any value for buildings and improvements associated with the American Timber property.

DOR appraiser, Gary Peterson, reviewed the subject property(s) pursuant to an AB-26 adjustment form filed by the taxpayer (Exhs. 1 & 2). The DOR reduction in value was a result of increased physical and functional depreciation. For the American Timber improvements, the functional obsolescence ranges from none to 80%. The physical depreciation ranges from 20% to 75%. For Glacier Gold there is one structure, and the functional obsolescence is 20%, while the physical depreciation is 10%. Neither property received an additional reduction for economic or external obsolescence (Exh. 6 & 8). The total depreciation recognized by the DOR is approximately 55%.

Mr. Peterson testified that the CTAB assigned no value to the improvements of American Timber, when in fact portions of the structures are being utilized either by the Taxpayer or sublet to North End Timber Products, LLC for \$1,500 per month (Exh. 9). The DOR appraised the buildings being leased by North End at a total value of \$19,840. By capitalizing the annual rental income of

\$18,000 at rates of 10% and 12%, the suggested value for these structures is \$150,000 to \$180,000.

Mr. Peterson testified that the Glacier Gold composting structure is being utilized in the manner it was constructed. The DOR determined the value by the cost approach and applied 10% for physical depreciation and 20% for functional obsolescence (Exh. 8). Mr. Peterson testified that no additional adjustments were made for economic obsolescence as a result of the Taxpayers' concern for the remote location, or the impact of the lease.

Exhibits #10 and #11 illustrate the values of the personal property for both Glacier Gold and American Timber at \$882,032 and \$60,234, respectfully.

The DOR notes that the taxpayers' appraisal report, furnished by Stevens & Co., does not attempt to value personal property associated with the subject property(s).

DOR's land value for the leased 65 acres is 136,000, or \$2,092 per acre. Mr. Peterson testified that the land value is established through the local appraisal office, based upon comparable land sales.

Mr. Peterson testified that he was made aware of the \$300,000 purchase of the subject property, but determined that it was not indicative of a market transaction because the seller was seeking to retire. Therefore, in his opinion, the transaction did not meet

the test of market value as defined in §15-8-111. Assessment -- market value standard -- exceptions. (2) (a) 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.

The DOR emphasized that the appraisal for the subject property was conducted pursuant to §15-8-111, MCA and by 42.22.1301 et. Seq., ARM, and 42.20.454, ARM. "...The Taxpayer has not challenged the validity of any of the rules upon which the appraisal was based, nor has it provided this Board with any evidence that the Departments industrial appraisal rules are arbitrary, capricious, or otherwise illegal. Given the lack of evidence or even a challenge, this Board has no basis upon which to find those rules to be anything but valid. Therefore, the Taxpayer must prove by a preponderance of evidence that the Departments valuation is incorrect..." (DOR Closing Brief, Pg. 2)

TAXPAYER'S CONTENTIONS

Summarized, the Taxpayer asserts that:

1. **Montana law directs the DOR and this Board in reviewing DOR appraisal to base estimates of value on market value.**
 - a. Mont. Code Ann. §15-8-111(1). All taxable property must be assessed at 100% of its market value except as otherwise provided.

b. Devoe v. DOR, 263 Mont. 100, 112, 866 P. 2d 288, 235 (1983)

c. Mont. Code Ann. §15-8-111 (2) (a) 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.

The DOR has not presented any supportable evidence that suggests the sale between the Johnson Brothers (seller) and the Larson's (buyer) does not meet the test of market value pursuant to statute.

2. The DOR ignored the arm's length price, which is the best indication of Fair Market Value for these unique assets.

a. Mont. Code Ann. §15-7-102 (3) As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property.

b. Albright v. State, 281 Mont. 196, 207, 933 P 2d 815, 822 (1997)

c. Basin Grain, LLC v. DOR, PT-2003-114 (2004)

The property involved here was initially offered for sale as a composting business in the year 2000 for the price of \$1.2 million. David Larson testified that the Larson family advertised both regionally and in trade journals and had no solid offers of interest in the business at that price. After the property had been marketed for about nine months, the Johnson Brothers entered the picture with an offer. Negotiations ensued and agreement on a purchase price was reached after extensive negotiations. The total purchase price had three elements of value: first, \$300,000 as cash consideration paid by the buyers; second, buyers' agreement to perform the obligations under the state lease, and, specifically, the provision under the state lease to return the site to its original condition at the end of the lease. Johnson Brothers estimated it would take about \$250,000 to perform this requirement of the lease. Third, the buyers would obtain inventory valued at approximately \$100,000. These elements of value combined indicate that the value of the property at the time of acquisition was approximately \$450,000 (cash consideration of \$300,000 combined with the site restoration obligation of \$250,000 less the value of the inventory (\$100,000)).

The sale of the assets by American Timber and Glacier Gold to the Taxpayers was a valid arm's length transaction. The Johnson's were willing sellers and the Taxpayers were willing buyers.

Neither was under any compulsion to buy or to sell. All parties to the purchase and sale of assets had reasonable knowledge of relevant facts surrounding the sale.

3. The DOR did not adequately factor economic obsolescence in its assessment.

The DOR determined the value of the subject property by means of the cost approach. This valuation methodology establishes a cost new for the improvements, and reduces that value indication by losses as a result of physical depreciation, functional obsolescence, and economic obsolescence. The Taxpayer asserts that economic obsolescence is present in two forms, (1) Olney Montana's remote location, and, (2) the impact of the State lease requiring removal of all improvements at the termination of the lease. It is the Taxpayer's position that the DOR ignored any consideration of economic obsolescence, even though it is a statutory requirement.

15-8-111. Assessment -- market value standard -- exceptions. (b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

4. An independent appraised value for the land and improvements at \$150,156.

As a part of the case, the Taxpayers presented an analysis prepared by Mr. Thomas Stevens, MAI (Exh. J). Summarized, the Stevens report establishes the following values:

American Timber Co.

Land Value Estimate		
65 Acres @ \$1,777/Ac.	\$115,505	
Improvements	<u>\$ 76,071</u>	
		\$191,576

Glacier Gold

Improvements		<u>\$208,580</u>
Total		\$400,156
		\$400,000 (R)

Mr. Stevens, for the most part, agreed with the DOR cost approach to value. Where the DOR fell short was not assigning a loss in value for economic obsolescence as a result of the isolated location and the impact of the state lease. Mr. Stevens established his economic obsolescence adjustment factor by analyzing rental figures for commercial property in Montana from economically isolated areas similar to the subject's location in Olney, Montana. The economic obsolescence that Mr. Stevens attributed to the adverse location of the subject was 70% (Pgs. 2-6, Exh. J).

Mr. Stevens testified that the reported cost of remediation should be a credit against his final indication of value:

Stevens	\$400,156
Less: Remediation Costs	<u>(\$250,000)</u>
Total Value Indication	\$150,156

5. The DOR cannot include in its valuations assets owned by third parties.

Included in the appraisal of Glacier Gold was a piece of personal property identified as a Kamatsu Excavator and valued at \$60,000. The Taxpayer testified they never took possession of this equipment.

BOARD DISCUSSION

DOR counsel asserts in her brief that this Board is required to uphold the DOR's value determination because the Taxpayer did not challenge the statute or the rules upon which the DOR appraisal is based. The appeal before this Board is not a legal challenge, but rather a factual dispute as to the appropriate market value for ad valorem taxation. The Court said in DOR v. Grouse Mountain Development 218 Mont 353, "This Court, however, has stated that it is not a judicial function to act as an authority on taxation matters. Tax appeal boards are particularly suited for settling disputes over the appropriate valuation of a given piece of property, and the judiciary cannot properly interfere with that function. Northwest Land v. State Tax Appeal Board (Mont. 1983), [203 Mont. 313,] 661 P.2d 44, 47, 40 St.Rep. 470, 473; Larson v. State (1975), 166 Mont. 449, 457, 534 P.2d 854, 858; Blair v.

Potter (1957), 132 Mont. 176, 183, 315 P.2d 177, 180. Assessment formulations are within the expertise of the State Tax Appeal Board and we will uphold their decisions unless there is a clear showing of an abuse of discretion." Northwest Land, 661 P.2d at 47, 40 St.Rep. at 473. The DOR agrees with the Courts determination of the function of this Board, "...DOR contends that even if the STAB's decision was clearly erroneous, the District Court erred by independently determining the correct valuation for DeVoe's properties because according to our prior decisions, the STAB is uniquely qualified to perform that fact-finding function..." DeVoe v. Department of Revenue, 263 Mont. 100, 112 (Mont., 1993).

The DOR contends that Taxpayer's witnesses, Dave Larson, Glacier Gold employee, Derek Nelson, former American Timber/Glacier Gold employee, and Ernie Johnson, current owner, possess no appraisal experience, and that these individuals lack sufficient expertise to offer an opinion of value (DOR Closing Brief). While it is true these three are not appraisers, it certainly does not preclude them from offering an opinion of value. Because of the their knowledge and experience with the subject property, these individuals could be considered reliable sources for an appraiser attempting to establish market value for the real and personal property.

The Taxpayer purchased the property for a reported amount of \$300,000. Pursuant to the lease agreement with the State of Montana, the lessee is required to remove all improvements at the termination of the lease. The Taxpayer estimated the cost for remediation to be approximately \$250,000. It is evident from the testimony that the Taxpayer considered the remediation costs when negotiating a sale price. The Taxpayers are currently utilizing a portion of the structures for the operation of their business, and in addition, has leased out other structures to another business. It is the Board's opinion that the market value for the structures cannot be reduced by the \$250,000, when they are currently generating income. In addition, the lease does not expire until 2020.

The Stevens report, albeit not an appraisal, suggests a value for the real estate of \$400,000. Mr. Stevens relied on the DOR's cost approach and applied an additional 70% economic obsolescence for the properties' remote location, and 14% for the impact of the state lease. Mr. Stevens's report illustrates how he arrived at the 70% adjustment for location, but is silent to any analysis for the adjustment for the lease. The taxpayer asserts that the sale is an arms-length transaction, but Mr. Stevens makes no reference to the sale in his report.

Mr. Stevens has established an indication of value, therefore suggesting he has done an appraisal on the property. The "Value Estimate and Certification" section of the report states that it complies with the Uniform Standards of Professional Practice (USPAP). Based upon what USPAP requires to be included within an appraisal, this report clearly does not meet the standards set forth by USPAP. The only useful information that the Board will consider with regards to Mr. Stevens's report is the determination of economic obsolescence with respect to location.

A second component of subject property that needs value recognition is the personal property. The following table illustrates the values of the personal property before this Board:

American Timber	DOR Value	Taxpayer Values	CTAB Values
Personal Property	\$60,234	\$20,234	\$20,234
Glacier Gold			
Personal Property	\$882,032	\$100,000	\$100,000
Total	\$942,266	\$120,234	\$120,234

In Montana, personal property is subject to taxation pursuant to **15-6-138. (Temporary) Class eight property -- description -- taxable percentage., and ARM 42, Chapter 21, Market Value of Personal Property.**

42.21.158 PROPERTY REPORTING REQUIREMENTS (3) Taxpayers having taxable property in the state of Montana on January 1 of each year must complete the statement as provided for in 15-8-301, MCA. With the exception of livestock owners, the taxpayer has 30 days from the date of receipt of any request for information to respond to the department's request. The department may grant an extension if the taxpayer requests such an extension during the 30-

day period. No extension may be granted that allows the taxpayer to report after March 15.

(5) If the taxpayer fails to respond to the department request for information during the timeframes set forth in (3) and (4), the department shall assess the property under the provisions of 15-1-303, 15-8-309, and 15-24-904, MCA, or any other applicable statute.

(6) Industrial and commercial property taxpayers shall provide documentation of the installed costs of intangible personal property included on the taxpayer's accounting records.

The DOR determined the 2002 market value for the personal property to be \$942,266. The Taxpayer requested, and was granted a value of \$120,234 at the county appeal. Based upon the testimony of David Larson, the value for the personal property was estimated to be \$109,332. This is what the Taxpayer could expect to receive as a result of a quick sale. The Board does not dispute Mr. Larson's ability and knowledge of establishing a value for this property if it were to be sold off piecemeal. For example, the first item of personal property identified and appraised by the DOR is, general plant equipment, carbon storage area, installed in 1993, with an installation cost of \$89,042. The DOR has depreciated this equipment by 35%, to arrive at a market value of \$64,880 (Exh. 11). Mr. Larson has identified this as concrete with no value (Exh F). If this is plant equipment, and is in use, it certainly has value. The difficulty here is, does the personal property suffer from loss in value similar to the real property, as a result of economic obsolescence? The sale price of the property would suggest that it does. It is the opinion of the Board that

consideration must be given based upon the large value discrepancy between the DOR's total property value and the purchase price. Lacking any other supportable evidence with respect to economic obsolescence, the Board will adopt the 70% location adjustment factor that was established in the Stevens report and apply it to the personal property, with the exception of the mobile heavy equipment. The Taxpayer and the DOR agree on the value for the heavy equipment that is owned by the Taxpayer.

The Board is compelled to point out that it is the duty of the Taxpayer to report any changes to the personal property to the DOR pursuant to the reporting requirements of statute and administrative rule as previously noted. If the Taxpayer no longer owns a particular piece of equipment, it should be noted on the appropriate DOR forms that are filed each tax year. The DOR has a responsibility to the taxing jurisdictions to value all taxable property. The Taxpayer indicated they never took possession of a 1997 excavator. The Board will order that it be removed from the assessment.

DOR's closing brief in summary states:

If a decision by the department is based upon statute or rule, the department's decision is presumed correct and the taxpayer must prove the decision incorrect.

"The department does have a presumption of correctness if its decisions are pursuant to an administrative rule or regulation, and the rule or regulation is not arbitrary, capricious, or otherwise illegal." *Department of Revenue v. Burlington Northern, Inc.* (1975), 169 Mont. 202, 214, 545 P.2d 1083, 1090.

The Supreme Court has recognized and agreed that if the decision is based upon a valid rule, the taxpayer is “saddled” with the burden of proving the Department wrong. Id.

The Taxpayer here convinced the CTAB that the value of the property was approximately \$360,000. The DOR is the appellant in these proceedings and is seeking to have this Board set the value at approximately \$2,160,000. 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). The statutes and rule establish the parameters in which the DOR conducts its appraisals. The market data creates the value for the property. The DOR asserts that its appraisal complies with the rules and statutes. **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 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. (b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in

value caused by depreciation, whether through physical depreciation, functional obsolescence, **or economic obsolescence** (emphasis supplied).

This Board must evaluate the evidence that it has been presented and issue an opinion of value based on that evidence. The Board is compelled to point out that arriving at an opinion of value for this property was no simple task. It is the opinion of the DOR that the seller was compelled to dispose of the property, therefore, the transaction does not meet the definition of market value. The Board does not entirely agree. While the seller may have been motivated, there is nothing in the record to suggest that the difference between the DOR's value and the purchase price is attributed wholly to the seller's motivation. The sale price of the property alone should have been an indication that some other forces were present that required further investigation. It is this Board's opinion that the DOR did not attempt to establish any loss in value attributed to economic obsolescence, even though **§15-8-111 (2)(b)** requires them to do so. *Market value depends on the price that a willing buyer would pay a willing seller, taking into consideration relevant facts. Presumably, relevant facts would include the market and economic conditions prevailing at the time of sale.* DeVoe v. Department of Revenue, 263 Mont. 100, 112 (Mont., 1993). *Economic obsolescence, or external obsolescence, is*

loss in value due to forces from outside the property, such as neighborhood decline, market or industry changes and general economic conditions. J.R.Simplot Co. v. Dept. of Revenue, 12 OTR at 394, 1993 WL 106053 (Oregon Tax Court 1993). It is this Board's opinion that economic obsolescence is undoubtedly a factor relating to the subject property and must be considered in establishing its fair market value.

This Board must weigh the evidence, and the evidence suggests that the property suffers from a loss in value from economic obsolescence.

As determined by this Board, the values for the real and personal property are:

American Timber	<u>Value Before Economic Obsolescence</u>	<u>Economic Obsolescence</u>	<u>Market Value</u>
Land	\$136,000	NA	\$136,000
Improvements	\$285,520	70%	\$88,750
Personal Property	\$234	70%	\$70
Total	\$421,754		\$224,820

Glacier Gold	<u>Value Before Economic Obsolescence</u>	<u>Economic Obsolescence</u>	<u>Market Value</u>
Improvements	\$802,230	70%	\$243,343
Personal Property	\$744,550	70%	\$223,365
Heavy Equipment	\$37,482	NA	\$37,482
Total	\$1,584,262		\$504,190

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. Section 15-2-301, MCA.
2. The State Tax Appeal Board may affirm, reverse or modify any decision rendered by the county tax appeal board. Section 15-2-301, MCA.
3. All taxable property must be assessed at 100% of its market value except as otherwise provided. Section 15-8-111(1), MCA.
4. 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 the relevant facts. Section 15-8-111(2)(a).
5. 15-8-111. Assessment -- market value standard -- exceptions.
(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.
6. 15-6-138. (Temporary) Class eight property -- description -- taxable percentage.
7. DOR did not calculate economic obsolescence when valuing the American Timber/Glacier Gold property. As such, the DOR's

valuation of the building and improvements is not justified and is not in conformance with the statutory directive to consider economic obsolescence when employing the cost approach. Section 15-8-111(2)(b),MCA.

8. Department of Revenue v. Grouse Mountain Dev., 218 Mont. 353 (Mont., 1985).
 9. J.R.Simplot Co. v. Dept. of Revenue, 12 OTR at 394, 1993 WL 106053 (Oregon Tax Court 1993).
 10. DeVoe v. Department of Revenue, 263 Mont. 100, 866 P.2nd 228 (1993).
 11. Northwest Land & Dev. v. State Tax Appeal Bd., 203 Mont. 313 (Mont., 1983)
 12. Larson v. State (1975), 166 Mont. 449, 457, 534 P.2d 854, 858
 13. Blair v. Potter (1957), 132 Mont. 176, 183, 315 P.2d 177, 180.
 14. Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967).
 15. Administrative Rules of Montana, Title 42
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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 Flathead County by the local Department of Revenue office at values of:

American Timber PT-2002-21	<u>Market Value</u>	Glacier Gold PT-2002-22	<u>Market Value</u>
Land	\$136,000	Improvements	\$243,343
Improvements	\$88,750	Personal Property	\$223,365
Personal Property	\$70	Heavy Equipment	\$37,482
Total	\$224,820	Total	\$504,190

The decision of the Flathead County Tax Appeal Board is modified accordingly.

Dated this 7th day of April, 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 7th day of April, 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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