

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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GEORGE & KATHLEEN F. SAYLER, )  
 ) DOCKET NO.: PT-2003-20  
 )  
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 appeal was heard on August 11, 2004, in Missoula, 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. Carolyn Sayler represented the taxpayer's, George and Kathleen Sayler. Ms. Sayler presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Appraiser Mike Hartkorn and Regional Manager Jim Fairbanks, presented testimony in opposition to the appeal.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony was taken from both the taxpayer and the Department of Revenue, and exhibits from both parties were received.

The Board affirms the decision of the Missoula County Tax Appeal.

**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 recreational residential in character and described as follows:

One acre tract of land and improvements located in the East ½ of the Northwest ¼ of Plat C, Missoula County, State of Montana. (Assessor ID #: 0002002906).

3. For tax year 2003, the Department of Revenue appraised the subject property at \$27,500 for the land and \$25,500 for the improvements.

4. The taxpayer filed an appeal with the Missoula County Tax Appeal Board on September 3, 2003, requesting the land value be reduced to \$21,780.

5. In its November 17, 2003 decision, the county board reduced the value of the land to \$24,750.

6. The taxpayer then appealed that decision to this Board on November 30, 2003, citing the following reason for appeal:

The set value is still high – last assessment of \$18,000 (1997) was based on discounting appraisal 60%. A similar discount would equal 21,960 not 24,750. Also – what basis is there for the original appraisal of \$55,000?

**TAXPAYER' S CONTENTIONS**

Ms. Sayler testified that, in 1997, the DOR initially set the land value at \$30,000 and subsequently reduced the value to \$18,000 (Exhibit #1). Ms. Sayler testified that the reason for the reductions was due to lack of utilities to the property that limit development capabilities. In 2003, the DOR established a land value of \$36,300. The taxpayer requested that the 40% reduction that was applied in the previous appraisal cycle be applied in the current appraisal cycle, ( $36,300 \times 60\% = \$21,780$ ).

Ms. Sayler testified that the DOR informed her that the base value for the property was \$55,000, but nothing was indicated on the assessment to suggest this.

A local realtor informed the Ms. Sayler that a realistic value for a one-acre parcel in this area, with no development restrictions, should be valued between \$15,000 and \$20,000. The realtor also informed Ms. Sayler that bank financing would be doubtful due to the lack of road maintenance, phone service, sewer, and water well.

Ms. Sayler learned from the DOR that the land sales used to establish value for the subject were from a superior neighborhood or area in the county.

Ms. Sayler testified that a land sale did occur in the immediate area of the subject property. This property sold in the spring of 2004, consisted of 4.03 acres, and sold for \$49,500. Exhibit 6 illustrates property listings of property for sale. No listings of property could be identified in the immediate area of the subject property.

Taxpayer Exhibits 7 & 8 is information with respect to the "right-of-way" easement that traverses through the subject property. This easement is estimated to encompass approximately 20% of the subject lot.

Based upon the restrictions placed upon the property, it is Ms. Sayler's opinion that the best indicator of value is \$21,780.

#### **DOR'S CONTENTIONS**

DOR Exhibit A is the property record card (PRC) for the subject property. The value illustrated on the document suggests a land value of \$24,750.

DOR Exhibit C is a listing of the land sales used to establish the land value for the subject property.

Summarized, this exhibit illustrates the following:

Past Value	Base Size (acreage)	1 acre
	Base Rate	\$30,000
	Residual	\$1,000

Current Results	Base Size (acreage)	1 acre
	Base Rate	\$55,000
	Residual	\$1,400
	Monthly Rate of Change	.72%

Sale #	Sale Date	Sale Price	Lot Size Acres	Time Adjusted	Adjusted Price Per Unit (acres)
1	8/98	\$60,000	20.00	\$77,591	\$3,880
2	4/00	\$42,000	5.00	\$48,307	\$9,661
3	1/98	\$49,900	20.00	\$67,028	\$3,351
4	10/00	\$55,000	5.94	\$60,900	\$10,252
5	9/00	\$60,000	20.00	\$66,865	\$3,343
6	9/00	\$60,000	20.00	\$66,865	\$3,343
7	8/97	\$42,500	5.00	\$58,607	\$11,721
8	12/99	\$59,500	5.00	\$70,137	\$14,027
9	7/98	\$49,150	3.485	\$63,912	\$18,339
10	6/00	\$105,000	30.00	\$119,266	\$3,976
11	6/00	\$72,500	12.35	\$82,350	\$6,668
12	8/99	\$70,000	20.95	\$84,516	\$4,034
13	8/98	\$55,000	5.00	\$71,125	\$14,225
14	3/98	\$43,000	5.37	\$57,145	\$10,641
15	7/00	\$58,000	5.00	\$65,466	\$13,093

The DOR testified that, based upon its sales information, the original unadjusted price of the subject property was \$55,000. The DOR then reduced that value 34%, which resulted in a new value of \$36,300. After discussions with Ms. Sayler, the DOR applied a 50% reduction to the original \$55,000 to arrive at a value of \$27,500. The DOR's additional adjustment was applied because of the limitations to the property as noted by Ms. Sayler.

The DOR testified that the sales illustrated on Exhibit C are all located within the same neighborhood as the subject property.

**BOARD'S DISCUSSION**

The DOR's linear regression analysis illustrated on Exhibit C, suggests that a one-acre parcel should be valued at \$55,000. There are adjustments that the DOR has taken into account. One is the size of the parcel. The model suggests that a larger property sells less per acre than a smaller parcel. The second adjustment is for time. The model indicates the sales have been adjusted to the DOR's date of value, January 1, 2002, by .72% per month or 8.6% per year.

The sales as illustrated on Exhibit C do in fact suggest that, the smaller the parcel, the more it sells for on a price per acre basis.

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Sale #	Sale Date	Sale Price	Lot Size (acres)	Price Per Unit (acre)	Adjusted Sale Price	Price Per Unit (acre)
9	Jul-98	\$49,150	3.485	\$14,103	\$77,591	\$22,264
2	Apr-00	\$42,000	5	\$8,400	\$48,307	\$9,661
7	Aug-97	\$42,500	5	\$8,500	\$67,028	\$13,406
8	Dec-99	\$59,500	5	\$11,900	\$60,900	\$12,180
13	Aug-98	\$55,000	5	\$11,000	\$66,865	\$13,373
15	Jul-00	\$58,000	5	\$11,600	\$66,865	\$13,373
14	Mar-98	\$43,000	5.37	\$8,007	\$58,607	\$10,914
4	Oct-00	\$55,000	5.94	\$9,259	\$70,137	\$11,808
11	Jun-00	\$72,500	12.35	\$5,870	\$63,912	\$5,175
1	Aug-98	\$60,000	20	\$3,000	\$119,266	\$5,963
3	Jan-98	\$49,900	20	\$2,495	\$82,350	\$4,118
5	Sep-00	\$60,000	20	\$3,000	\$84,516	\$4,226
6	Sep-00	\$60,000	20	\$3,000	\$71,125	\$3,556
12	Aug-99	\$70,000	20.95	\$3,341	\$57,145	\$2,728
10	Jun-00	\$105,000	30	\$3,500	\$65,466	\$2,182

The DOR did take into account that the subject property has development limitations attached to it, and subsequently reduced the suggested value by 50%. Although the record is silent with regards to market date for a 50% adjustment, the DOR has made an attempt to address the taxpayer's concerns. The appraisal of real property is an imperfect process as noted by the Court. In Albright v. State of Montana, 281 Mont. 196, 1997, the Court said, *"We recognize that the Department's method of assessing property and estimating market values is by no means perfect, and will occasionally miss the mark when it comes to the Constitution's goal of equalizing property valuation. However, perfection in this field is, for all practical purposes, unattainable due to the logical and historical preference for a market-based method, and the occasional lack of market data. Nonetheless, we conclude that the Department's*

*interdisciplinary method--which utilizes the market data approach, the income approach, the cost approach, or some combination of these approaches--is a reasonable attempt to equalize appraisal of real property throughout the State and that it comports with the most modern and accurate appraisal practices available.*

*Finally, we note that in those occasional situations when, due to the inherent imperfections in the Department's market-based method, fair, accurate, and consistent valuations are not achieved, individual taxpayers can and should avail themselves of the property tax appeals process set forth at §15-15-101, -102, -103, and -104, MCA. (emphasis supplied)*

There is nothing in the record to suggest that the Missoula County Tax Appeal Board determination of value should be further adjusted.

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**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. Albright V State of Montana, 281 Mont. 196, 1997.
4. The appeal of the taxpayer is denied and the decision of the Missoula County Tax Appeal Board is affirmed.

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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 Missoula County by the local Department of Revenue office at the land value of \$24,750. The decision of the Missoula County Tax Appeal Board is affirmed.

Dated this 21st day of September, 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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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 21st day of September, 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:

George & Kathleen F. Sayler  
1102 Ash  
Coeur d' Alene, Idaho 83814

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

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

Missoula County Appraisal Office  
2681 Palmer Street  
Suite I  
Missoula, Montana 59808-1707

Dale Jackson  
Chairman  
Missoula County Tax Appeal Board  
2160 Nuthatch  
Missoula, Montana 59808

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DONNA EUBANK  
Paralegal