

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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JAMES LEROY SAYLER,	)	DOCKET NO.: PT-2009-8
	)	
Appellant,	)	
	)	
-vs-	)	FACTUAL BACKGROUND,
	)	CONCLUSIONS OF LAW,
	)	ORDER and OPPORTUNITY
DEPARTMENT OF REVENUE	)	FOR JUDICIAL REVIEW
OF THE STATE OF MONTANA,	)	
	)	
Respondent.	)	

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James Leroy Sayler (Taxpayer) appealed a decision of the Missoula County Tax Appeal Board (CTAB) relating to the Department of Revenue’s (DOR’s) valuation of his property identified as one acre located in Section 30, Township 16 North, Range 22 West. Taxpayer claims that the DOR overvalued his property for tax purposes and seeks a reduction in the value assigned by the DOR. A hearing on the record was held by the State Tax Appeal Board (Board).

**Issue**

The issue before this Board is determining the appropriate market value for the subject property for tax year 2009.

**Summary**

Sayler is the Taxpayer in this action and therefore bears the burden of proof. Based on a preponderance of the evidence, the Board upholds the value set by the Missoula County Tax Appeal Board.

## Findings of Fact

1. Due, proper and sufficient notice was given of this matter. This matter was set to be heard on the record by the state tax appeal board pursuant to §15-2-301(2), MCA, without opposition by the parties. The Missoula county tax appeal board held a full hearing, and the hearing transcript and exhibits is part of the record in this matter. All parties received the transcript of the county tax appeal board and were afforded opportunity to submit additional evidence.
2. The property is described as one acre located in Section 30, T 16 N, R 22 W, geocode 04-2529-30-1-01-03-0000.
3. The subject property consists of one acre with a small cabin located on the property. (DOR Exh A.)
4. The Department initially valued the land at \$101,200 and the building at \$28,210. (DOR Exh A.)
5. This value was a substantial increase from the valuation of \$24,750 for the land and \$21,810 for the cabin set in the last cycle. (DOR Exh A.)
6. The Taxpayer filed an appeal with the Missoula County Tax Appeal Board stating “Value placed on land unrealistic. This is a rural acre surrounded by USFS, 3 miles from county road service w/no water, sewer, telephone, no possibility of both well and sewer on property as there is a FS right of way on front of property – and ground water just outside on back of property making a sewer system questionable.”
7. The Missoula County Board held a hearing on December 14, 2009. The taxpayer contested the value of the land but not the improvements.
8. The Taxpayer, represented by Carolyn Sayler, presented comparable sales information and testified that the land has no running water, no

well and no septic system. The Taxpayer also testified that the Forest Service has an easement running across the front of the property.

9. The Taxpayer further testified that the property value was reduced by the DOR in the 1997 appraisal cycle because of the lack of sewer and water. The Taxpayer testified that the Missoula CTAB again lowered the property value because of a “poor first quality acre” in 2003. (Exh 4.)
10. The Department presented a CALP (computer assisted land pricing) model of unimproved land sales. A CALP is a computer assisted land pricing model that analyzes past sales of land to predict an accurate value for land in the current appraisal cycle. The Department estimated a value of \$101,200 for an acre of land in this area. (DOR Exh D.)
11. The Department provided information relating to the CALP, as well as a few comparable sales. The CALP has 38 sales with dates ranging from 2002 to 2006. None of the sales on the CALP were less than 1 acre in size. The base lot size of the CALP is one acre, with additional acres valued at \$2,300. (DOR Exh. D.)
12. The “R<sup>2</sup>” or “R squared” is the coefficient of determination in a CALP model. The R<sup>2</sup> is a measure of the predictive accuracy of the model. R<sup>2</sup> values during the last cycle ranged from 0 to 1. The closer the value is to 1, the more reliable the model’s estimate of value. (*Manicke v. DOR*, PT-2005-5, 08/31/06, page 14.) This same measure of predictive accuracy is often referenced as a percentage. The closer the value is to 100%, the more reliable the value is to the model’s estimate of value.
13. The “R-squared” value of predictive accuracy for the CALP in question is 18.43%. (DOR Exh D.)
14. The Department of Revenue routinely provides CALP information to the county and state tax appeal board to demonstrate the predictive

accuracy of DOR valuations. *See, e.g. DOR v. Wadsworth, PT -2006-9, DOR v. Bengala, PT- 2006-10, Manicke v. DOR, PT 2005-5, Bauman v. DOR, PT- 2003-127, DOR v. Forney, PT-1997-125, Kohl v. DOR, PT-1993-385.*

15. Although the Taxpayer filed for informal review, the Department declined to adjust the value. The Department's appraiser testified that he believed the property was appropriately valued. He did not believe that the issues raised by the Taxpayer affected the value of the land in question.
16. The Department testified that three families live on the road year-round. The Department also testified that no proof was submitted to demonstrate that sewer and water could not be brought to the property.
17. The Missoula CTAB lowered to value of the land to \$72,864 and did not adjust the value of the improvements. The Missoula CTAB based its decision to lower the value on "the use of linear regression to establish land value when no sales data were used after 2006. This does not adequately reflect the current economics conditions (sic) when extrapolating the regression line."
18. The Taxpayer appealed the Missoula CTAB decision to this Board. In a letter to the CTAB, the taxpayer argues that his value should have gone up no more than 54% because of the average increase in property values. (Letter to Cyndie Alpin, dated January 13, 2010).
19. Both parties submitted additional written material to this Board, with substantially the same arguments as presented at the county level.

### **Conclusions of Law and Board Discussion**

The State Tax Appeal Board has jurisdiction over this matter. (Section 15-

2-301, MCA). The Board determines whether the Department has set the proper market value for the subject properties. 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. (Section 15-8-111(2)(a), MCA). In addition, all taxable property must be assessed at 100% of its market value except as otherwise provided. (Section 15-8-111, MCA).

In this instance, the Department did not cross-appeal the value set by the Missoula County Board. Thus, \$72,864 is the final value for the property. The Board must resolve whether the value of the land is the value set the Missoula County Tax Appeal Board.

It is true, as a general rule, that the Department of Revenue appraisal 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).

### **Board Discussion**

The DOR used a CALP model based on verified land sales in Neighborhood 23, which includes the subject property. In this case, the CALP model indicated a value of over \$100,000 per acre. All of the CALP sales were of properties in excess of one acre. The Missoula CTAB adjusted the value of the property to \$72,864 to account for the fact that none of the sales occurred after 2006.

The Taxpayer believes the subject property should be further reduced in value because there is no sewer or water to the property, an easement crosses a portion of the property and the lot is too small for development.

The taxpayer also argued that the subject property should not be subject to an increase in value that is more than the average residential property value increase. (FOF 18). The taxpayer fails to recognize that the average statewide increase of 54% does not directly impact the specific increase or decrease of a particular parcel, but is a state-wide average increase. Certainly, some properties have increased in value, and some properties have decreased. Generally, property on the west side of the Continental Divide, including Missoula County, has seen a larger increase in value than on the east side of the Divide.

The evidence in this instance indicates that the Taxpayer's property has increased significantly in value during the past reappraisal cycle. The evidence also indicates that the subject property had less value than a standard one acre parcel in the neighborhood in question. This valuation is supported by the evidence indicating compromised winter access, lack of amenities to the property such as sewer and water, and an easement through the property. The evidence also indicates, however, that the property is in a desirable area, with additional recreational and year-round homes nearby.

While the Taxpayer has enjoyed a significant valuation adjustment in past cycles, there is no indication that a 45% reduction would reflect market value, as required by §15-8-111, MCA. We see no indication that the value of the property should be lower than the \$72,864 set by the Missoula CTAB, and we decline to be swayed by taxpayer's arguments.

Therefore, the Board upholds the Missoula CTAB decision.

**Order**

It is 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 at a value of \$72,864 for the land and \$28,210 for the improvements, as determined by the Missoula County Tax Appeal Board.

Dated this 18<sup>th</sup> of May, 2010.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

/s/ \_\_\_\_\_  
KAREN E. POWELL, Chairwoman

/s/ \_\_\_\_\_  
DOUGLAS A. KAERCHER, Member

/s/ \_\_\_\_\_  
SAMANTHA SANCHEZ, 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 19th day of May, 2010, 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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/s/ \_\_\_\_\_  
DONNA J. EUBANK, paralegal