

JENI DODD,

CASE №: PT-2026-24

Appellant,

v.

STATE OF MONTANA,
DEPARTMENT OF REVENUE,

Respondent.

**ORDER GRANTING
DEPARTMENT OF REVENUE'S
MOTION TO DISMISS,
STATEMENT OF UNDISPUTED
FACTS, CONCLUSIONS OF LAW,
ORDER, AND OPPORTUNITY FOR
JUDICIAL REVIEW**

STATEMENT OF THE CASE

This is an appeal from the Cascade County Tax Appeal Board (CTAB) for the subject property located at 1605 16th Avenue SW, Great Falls, Montana (Subject Property). The Appellant appealed the CTAB's decision to the Montana Tax Appeal Board (MTAB) on March 27, 2026. The Department of Revenue (the Department) filed a Motion to Dismiss on April 27, 2026. On April 28, 2026, the Board issued an Order Vacating Scheduling Conference and Setting Briefing Schedule. Appellant filed a Response to the Department's Motion to Dismiss on April 28, 2026. The Department filed its Reply to Appellant's Response to Department's Motion to Dismiss on May 12, 2025. The matter is fully briefed, and the Board has reviewed the parties' submissions. The Board grants the Department's Motion to Dismiss because the Appellant failed to exhaust their administrative remedies.

ISSUE TO BE DECIDED

Whether the Appellant exhausted all administrative remedies prior to appealing to the Montana Tax Appeal Board.

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STATEMENT OF UNDISPUTED FACTS

1. To whatever extent the following statements of facts may be construed as conclusions of law, they are incorporated accordingly.

2. The Subject Property is a 931 square foot mobile home owned by Jeni Dodd (Taxpayer) and located at 1605 16th Ave. SW, Great Falls, Montana. *MTAB Dkt. 3*. The Subject Property is identified by geocode 02-3015-15-2-10-02-M002. *Id.*

3. The Department valued the Subject Property at \$36,110 for tax years 2025 and 2026. *MTAB Dkt. 3*. Taxpayer filed an AB-26 Request for Informal Review on May 28, 2025. *MTAB Dkt. 3*.

4. The Department sent its AB-26 Determination Letter on September 26, 2025, stating that a property review was completed from the street because access was denied. *MTAB Dkt. 3*. The Department testified at the CTAB hearing that the Taxpayer requested the Department not enter the Subject Property without the Taxpayer being present. *CTAB Hr'g Tr. 05:45-06:05*. However, during the scheduled inspection on September 11, 2025, the Taxpayer failed to appear, and the Department was forced to appraise the Subject Property from the street. *Id.* Based on the street review, the Department lowered the Subject Property's desirability from average to fair and made no change to the overall value. *MTAB Dkt. 3*.

5. Taxpayer appealed the Department's AB-26 determination to the CTAB on October 24, 2025. *MTAB Dkt. 3*. The CTAB scheduled the hearing for January 29, 2026, and sent notice of the hearing date to the parties on January 26, 2026. *Id.* The Taxpayer requested additional time, stating that the provided notice was too short. *Id.* The CTAB rescheduled the hearing for February 26, 2026, and sent notice of the new hearing date to the parties on February 11, 2026. *Id.* On February 25, 2026, the CTAB sent a reminder of the hearing via email. *Id.*

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On the day of the hearing, the Taxpayer responded to the CTAB's February 25th email stating that she was prepared for the hearing but was too ill to attend the hearing in person or via zoom. *Id.* The CTAB did not respond to the Taxpayer's email. *Id.*

6. The CTAB hearing was held on February 26, 2026. *MTAB Dkt. 3.* The Taxpayer did not attend the CTAB hearing. *Id.* The CTAB denied the Taxpayer's appeal and upheld the Department's value of \$36,100. *Id.*
7. At the CTAB hearing, the county board discussed the Taxpayer's absence and a motion was made to continue with the hearing. *CTAB Hr'g Tr. 01:30-04:00.* The motion passed with the Board reasoning that the Taxpayer could appeal to MTAB if she wished. *Id.* The Department did not concur or waive the requirement that the Taxpayer or their agent attend the CTAB hearing. *CTAB Hr'g Tr. 01:30-04:00; MTAB Dkt. 3.*
8. On March 27, 2026, the Taxpayer appealed to MTAB. *MTAB Dkt. 1.* On April 27, 2026, the Department filed a Motion to Dismiss on April 27, 2026. *MTAB Dkt. 5.* On April 28, 2026, the Board issued an Order Vacating the Scheduling Conference and Setting a Briefing Schedule. *MTAB Dkt. 6.*
9. In its Motion to Dismiss, the Department argues that the Taxpayer did not exhaust their administrative remedies. *MTAB Dkt. 5.* The Department cites Mont. Code Ann. § 15-2-301, Montana Supreme Court cases, and MTAB cases to support its contention that a Taxpayer or their representative must attend the CTAB hearing. *Id.* The Department further argues that while the Taxpayer did email the CTAB the day of the hearing, the Board chose to move forward with the hearing. *Id.*
10. The Taxpayer responded on April 28, 2026, arguing that the Montana Administrative Procedures Act recognizes a good cause exception for illness in

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the context of hearings. *MTAB Dkt. 7*. Taxpayer also argues that dismissing this appeal would elevate form over substance and deny the Taxpayer an opportunity to present their case. *Id.* Lastly, Taxpayer asserts that the Board is creating an absolute bar when illness prevents appearance. *Id.*

11. The Department filed its Reply Brief in Support of Motion to Dismiss on May 12, 2026, arguing that the Taxpayer is requesting that the Board create an exception to the statutory appearance requirements for illness, which is outside the plain language of Mont. Code Ann. § 15-2-301. *MTAB Dkt. 8*.

JURISDICTION AND STANDARD OF REVIEW

12. The Montana Tax Appeal Board is an independent agency not affiliated with the Montana Department of Revenue. Mont. Const., Art. VIII § 7; Mont. Code Ann. § 15-2-101.
13. This Board may hear appeals de novo. *Dept. of Revenue v. Burlington N.*, 169 Mont. 202, 213-14, 545 P.2d 1083 (1976). “A trial de novo means trying the matter anew, the same as if it had not been heard before and as if no decision had been previously rendered.” *McDunn v. Arnold*, 2013 MT 138, ¶ 22, 370 Mont. 270, 275, 303 P.3d 1279, 1282.
14. The Board’s order is final and binding upon all parties unless changed by judicial review. Mont. Code Ann. § 15-2-301(6).
15. A reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county board hearing. An appeal of the county board's decision may not be made to the Montana tax appeal board unless the person or the person's agent has exhausted the remedies available through the county board. In order to exhaust the remedies, the person or the person's agent shall attend the county board hearing. On written request by the person or the person's agent and on the written concurrence of the department,

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the county board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all witnesses at the hearing and the deliberation of the county tax appeal board in rendering a decision must be electronically recorded and preserved for 1 year. If the decision of the county board is appealed, the record of the proceedings, including the electronic recording of all testimony and the deliberation of the county tax appeal board, must be forwarded, together with all exhibits, to the Montana board. Mont. Code Ann. § 15-15-103.

16. If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the Montana tax appeal board by filing with the Montana board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint. Mont. Code Ann. § 15-2-301(1)(b).

17. The valuation of property may not be reduced by the county tax appeal board unless either the taxpayer or the taxpayer's agent makes and files a written application for reduction with the county tax appeal board. Mont. Code Ann. § 15-15-102.

CONCLUSIONS OF LAW

18. To whatever extent the following conclusions of law may be construed as statements of fact, they are incorporated accordingly.

19. “[I]n connection with any appeal under [Mont. Code Ann. § 15-2-301], the Montana board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act.” Mont. Code Ann. § 15-2-301(5).

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20. In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. Mont. Code Ann. § 15-15-101(6).
21. When construing a statute, it is the Board's role to "determine what in terms or substance is contained in it, and not to insert what has been omitted or to omit what has been inserted." *State v. Minett*, 2014 MT 225, ¶ 12, 376 Mont. 260, 263, 332 P.3d 235, 238; Mont. Code Ann. § 1-2-101.
22. "When faced with a problem of statutory construction great deference must be shown to the interpretation given the statute by the officers or agency charged with its administration." *Dep't of Revenue v. Puget Sound Power & Light Co.*, 179 Mont. 255, 262, 587 P.2d 1282, 1286 (1978) (citing *Udall v. Tallman*, 380 U.S. 1, 16 (1965)).

DISCUSSION

23. For the reasons set forth below, this Board grants the Department's Motion to Dismiss.
24. To determine if the Taxpayer failed to exhaust all administrative remedies, we must look at the relevant sections of Mont. Code Ann. § 15-15-103(1). First, a reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county board hearing. Mont. Code Ann. § 15-15-103(1). In this case, the Taxpayer did make an application to the CTAB satisfying Mont. Code Ann. § 15-15-102.
25. "An appeal of the county board's decision may not be made to the Montana Tax Appeal Board unless the person or the person's agent has exhausted the remedies available through the county board. In order to exhaust the remedies, the person or the person's agent shall attend the county board hearing." Mont.

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Code Ann. § 15-15-103. Mont. Code Ann. § 15-15-103(1) is clear that administrative remedies must be exhausted before an appeal to this Board is made, the question that remains is whether the administrative remedies were exhausted. When reviewing the statute, the Board focuses on the section that reads “In order to exhaust the remedies, the person or the person's agent shall attend the county board hearing. On written request by the person or the person's agent and on the written concurrence of the department, the county board may waive the requirement that the person or the person's agent attend the hearing.” Mont Code Ann. § 15-15-103(1). From the record, it is clear that the Taxpayer did not attend the hearing, and the hearing was held in the absence of the Taxpayer or their representative. The statute’s use of “may” indicates discretion to waive the appearance requirement but the Taxpayer must make a written request to the Department and obtain a written concurrence of the Department before the CTAB may waive the appearance requirement. Ultimately, the CTAB discussed the Taxpayer’s absence and decided to proceed with the hearing.

26. While the Taxpayer did notify the Board in writing that she was ill and unable to attend the hearing, in person or via Zoom, the Taxpayer failed to contact the Department and obtain a written concurrence from the Department to waive the appearance requirement.

27. While the Taxpayer would have the Board deny the Department’s motion because the Montana Administrative Procedures Act provides a good cause exception for illness, this argument is unfounded. Mont. Code Ann. § 15-2-301 is the controlling statute, and the plain reading of the statute does not include a good cause exception. Additionally, the Board is not creating an “absolute bar when illness prevents appearances.” The Taxpayer had several options at their disposal, including having a representative appear in her place at the hearing, or the Taxpayer could have obtained written concurrence from the Department to waive the appearance requirement.

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28. The law requires a minimum standard of filing and attendance at a CTAB hearing prior to filing with MTAB. There is nothing in the record showing that the appearance provision of Mont. Code Ann. § 15-15-103 was waived by the CTAB, and because the Taxpayer or their representative failed to attend the hearing, or obtain a written concurrence from the Department, the Board finds that the Taxpayer failed to exhaust their administrative remedies.

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ORDER

29. The Department's Motion to Dismiss is granted.
30. The Taxpayer's appeal is dismissed for failure to exhaust administrative remedies.

Dated this 2nd day of June 2026.



A handwritten signature in blue ink, appearing to read "Travis Brown", written over a horizontal line.

Travis Brown, Chairman

A handwritten signature in blue ink, appearing to read "Adam Millinoff", written over a horizontal line.

Adam Millinoff, Member

A handwritten signature in blue ink, appearing to read "Chris Murphy", written over a horizontal line.

Chris Murphy, Member

Notice: You are entitled to judicial review of this Order by filing a petition in district court within 60 days of the service of this Order. The Department of Revenue shall promptly notify this Board of any judicial review to facilitate the timely transmission of the record to the reviewing court. *Mont. Code Ann. §15-2-303(2)*.

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Certificate of Service

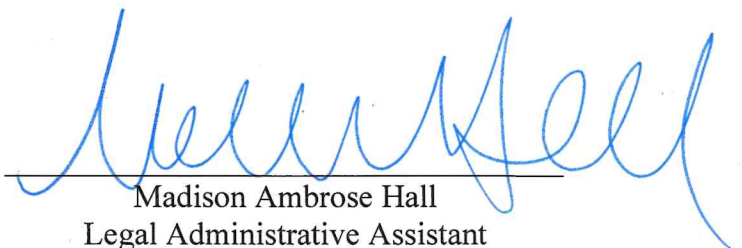
I certify that I caused a true and correct copy of the foregoing *Order Granting Department of Revenue's Motion to Dismiss, Statement of Undisputed Facts, Conclusions of Law, Order, and Opportunity for Judicial Review* to be sent by email and United States Mail via Print & Mail Services Bureau of the State of Montana on June 2, 2026, to:

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