

BEFORE THE MONTANA TAX APPEAL BOARD

FILED

APR 24 2025

Montana Tax Appeal Board

JEFFREY and CHRISTY DORAN,
Appellants,

v.

STATE OF MONTANA,
DEPARTMENT OF REVENUE,
Respondent.

CASE №: PT-2024-49
Geocode: 07-3830-23-2-01-43-0000
Tax Years in Dispute: 2023-2024

**STATEMENT OF UNDISPUTED
FACT, CONCLUSIONS OF LAW,
ORDER, AND OPPORTUNITY FOR
JUDICIAL REVIEW**

STATEMENT OF THE CASE

This is an appeal of a final decision by the Flathead County Tax Appeal Board (CTAB) denying Jeffrey and Christy Doran, (Appellants) a reduction in value on the subject property located at 93 Marion Hills Road, Marion, Montana (Subject Property). The Appellants appealed that outcome to the Montana Tax Appeal Board (MTAB) on May 16, 2024.

The Department of Revenue (DOR) filed a Motion to Dismiss and Brief in Support on December 13, 2024. Appellants filed a Motion to Continue the response deadline on December 31, 2024, and the Board granted the Motion on December 31, 2024. Appellants filed a Response to the DOR's Motion to Dismiss and Brief in Support on January 17, 2025. The DOR filed its Reply Brief in Support of its Motion to Dismiss on January 30, 2025. The matter is fully briefed, and the Board has reviewed the submissions of both parties. This Board finds that Appellants fail to state a claim upon which relief can be granted. Therefore, we grant the DOR's Motion to Dismiss.

ISSUE TO BE DECIDED

Whether Appellants have stated a claim upon which relief can be granted.

EXHIBIT LIST

Appellants did not submit any exhibits with their Response to the DOR's Motion to Dismiss and Brief in Support. The following evidence was submitted at the CTAB hearing and has been incorporated into the record:

Appellants' Exhibits:

1. Definitions and Jurisdiction;
2. Excerpt of Montana Code Annotated Title 15, Chapter 6 – Property Subject to Taxation;
3. Copy of M.C.A. 15-6-134 with Added Language;
4. Excerpt of M.C.A. 15-1-101 with Added Language;
5. Excerpt of Articles II and VIII of The Constitution of the State of Montana with Added Language,
6. Property Record Card for Taxpayers' Example Property #1;
7. Property Record Card for Taxpayers' Example Property #2;
8. Property Record Card for Taxpayers' Example Property #3;
9. Property Record Card for Taxpayers' Example Property #4;
10. Property Record Card for Taxpayers' Example Property #5;
11. Property Record Card for Taxpayers' Example Property #6;
12. Copy of Blank Application for Tax Exemption and Tax Rate Reduction for the Remodeling, Reconstruction, or Expansion of Existing Buildings or Structures;
13. Copy of Blank New or Expanding Industry Property Tax Abatement Application;
14. Copy of Blank Business Registration Form;
15. Copy of Blank Nexus Questionnaire; and
16. Taxpayers' CTAB Statement.

The DOR submitted the following exhibits with their Motion to Dismiss.

DOR Exhibits:

- A. 2023 Property Record Cards;
- B. 2023 Property Classification and Appraisal Notices;

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- C. 2023 Form AB-26 Requests for Informal Classification and Appraisal Review;
- D. 2023 Form AB-26 Determination Letters;
- E. MTAB-401 Appeals to the County Tax Appeal Board with Attachments;
- F. CTAB Final Determination Letters;
- G. DOR Letter to Taxpayers Regarding Montana Disabled Veterans Property Tax Assistance Program, dated August 30, 2023;
- H. DOR Letter to Taxpayers Regarding Montana Disabled Veterans Property Tax Assistance Program, dated June 1, 2024; and
- I. Affidavit of Dawn Cordone.

STATEMENT OF UNDISPUTED FACT

1. To whatever extent the following findings of fact may be construed as conclusions of law, they are incorporated accordingly.
2. The Subject Property contains a residential home owned by Jeffrey and Christy Doran and is 5.0 acres in total size. *Ex. A.* The Subject Property is located at 93 Marion Hills Road, Marion, Montana, and is also identified by its geocode 07-3830-23-2-01-43-0000. *Id.* The home contains six bedrooms and three bathrooms as well as additions such as a wood deck, garage, and porch. *Id.*
3. The DOR valued the Subject Property's land at \$94,200 and the improvements at \$710,800 for a total value of \$805,000 for tax years 2023 and 2024. *Ex. A.*
4. The DOR mailed the Appellants' Property Classification and Appraisal Notice on June 30, 2023, and Appellants subsequently filed an AB-26 Request for Informal Review on July 26, 2023. *Ex. B, C.* The DOR issued its Final Determination letter on January 12, 2024, declining to make any changes to the Subject Property. *Ex. D.*

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5. Appellants appealed the DOR's AB-26 Final Determination letter to the CTAB on February 9, 2024. *Ex. E*. The CTAB held a hearing on April 19, 2024, and upheld the DOR's valuation of the Subject Property. *Ex. F*.
6. Appellants appealed the CTAB's Final Determination to MTAB on May 16, 2024. *MTAB Dkt. 1*.
7. The DOR filed a Motion to Dismiss and Brief in Support on December 13, 2024, alleging that Appellants failed to state a claim upon which MTAB can grant relief. *MTAB Dkt. 10*. The DOR argues that the Appellants are not disputing the Subject Property's value but are instead claiming that the property is not subject to taxation. *Id.* The DOR contends that according to Montana law, all property in the state is subject to taxation and that all taxable property must be appraised at 100% of its market value. *Id.* The DOR argues that the Subject Property is correctly classified as Class Four residential property and subject to taxation. *Id.*
8. Appellants responded to the DOR's Motion to Dismiss on January 17, 2025, stating that they are not challenging the DOR's calculation methods or valuation approach to value the Subject Property. *MTAB Dkt. 14*. Appellants are, however, contesting the final value as they believe the Subject Property does not fit the requirements to be taxed in Montana, and the final assessed value should be zero. *Id.* Furthermore, Appellants claim that they do not fit into the definition of "taxpayer" as defined in the Montana Code Annotated and that the Subject Property was misclassified as taxable Class Four property. *Id.* Appellants also claim that the DOR has improperly applied a commercial ad valorem tax to the Subject Property. *Id.* Appellants further allege that the DOR has committed the crime of falsifying records by ignoring and/or misapplying tax laws to include the Subject Property on the tax roll. *Id.* Appellants state the DOR's actions amounts to a taking of property without due process of the law. *Id.*

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9. On January 30, 2025, the DOR filed a Reply Brief in Support of its Motion to Dismiss stating that Appellants provided no legitimate argument for a property valuation of zero dollars. *MTAB Dkt. 15*. The DOR asserts that according to Montana law, Class Four property includes private residential property, and that the DOR properly classified and taxed the Subject Property. *Id.* The DOR argues that they did not impose a commercial ad valorem tax on the Appellants because they did not classify the Subject Property as commercial, and the ad valorem definitions the Appellants cite do not control property tax administration in Montana. *Id.* The DOR also argues that Appellants' inalienable rights under the Montana Constitution are not compromised by being required to pay taxes. *Id.* The DOR contends that while the ability to pursue the acquisition and possession of property is an enumerated right afforded by the Constitution, the Constitution does not grant an enumerated right to own real property. *Id.* Lastly, the DOR countered that they are not performing a taking of property without due process of the law because the very existence of this appeal proves that Appellants' right to due process remains intact. *Id.*

JURISDICTION AND STANDARD OF REVIEW

10. 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*. The Taxpayer filed a timely appeal of the DOR's decision to the MTAB. Therefore, this Board maintains jurisdiction to hear and decide this matter. *Mont. Code Ann. § 15-2-301*.
11. 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.

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12. A claim is subject to M. R. Civ. P. 12(b)(6) dismissal only if it either fails to state a cognizable legal theory for relief or states an otherwise valid legal claim but fails to state sufficient facts that, if true, would entitle the claimant to relief under that claim. *Anderson v. ReconTrust Co., N.A.*, 390 Mont. 12, 696, 407 P.3d 692 (2017).
13. Under Rule 12(b)(6), the court must take all well-pled factual assertions as true and view them in the light most favorable to the claimant, drawing all reasonable inferences in favor of the claim. *Kleinhesselink v. Chevron, U.S.A.*, 277 Mont. 158, 161, 920 P.2d 108 (1996).
14. Whether an asserted claim fails to sufficiently state a claim upon which relief may be granted is a question of law reviewed de novo for correctness under the standards of M.R. Civ. P. 12(b)(6). *Sinclair v. BNSF Ry. Co.*, 2008 MT 424, ¶ 25, 347 Mont. 395, 200 P.3d 46.
15. The Board's order is final and binding upon all parties unless changed by judicial review. *Mont. Code Ann. § 15-2-301(6)*.

CONCLUSIONS OF LAW

16. To whatever extent the following conclusions of law may be construed as findings of fact, they are incorporated accordingly.
17. "All taxable property must be appraised at 100% of its market value...." *Mont. Code Ann. § 15-8-111*.
18. "[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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19. DOR is entitled to 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 unlawful.” *Burlington N.*, 169 Mont. at 214, 545 P.2d at 1090. However, DOR cannot rely entirely on the presumption in its favor and must present a modicum of evidence showing the propriety of their action. *Western Air Lines v. Michunovich*, 149 Mont. 347, 353, 428 P.2d 3, 7 (1967).
20. The Taxpayer bears the burden of proving the error of DOR’s decision. *Farmers Union Cent. Exch. v. Dep’t of Revenue*, 272 Mont. 471, 476, 901 P.2d 561, 564 (1995); *Western Air Lines*, 149 Mont. at 353, 428 P.2d at 7.
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. In the construction of a statute, the intention of the legislature is to be pursued if possible. When a general and particular provision are inconsistent, the latter is paramount to the former, so a particular intent will control a general one that is inconsistent with it.” *Mont. Code Ann. § 1-2-102*.
23. “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)).
24. “[T]ax statutes are to be strictly construed against the taxing authority and in favor of the taxpayer.” *Western Energy Co. v. Dep’t of Revenue*, 1999 MT 289, ¶ 10, 297 Mont. 55, 58, 990 P.2d 767, 769.

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25. “Administrative agencies enjoy only those powers specifically conferred upon them by the legislature. Administrative rules must be strictly confined within the applicable legislative guidelines. Indeed, it is axiomatic in Montana law that a statute cannot be changed by administrative regulation. We look to the statutes to determine whether there is a legislative grant of authority.” *Bick v. State Dep’t of Justice, Div. of Motor Vehicles*, 224 Mont. 455, 457, 730 P.2d 418, 420 (1986).
26. “[A]dministrative regulations interpreting the statute made by agencies charged with the execution of the statute are entitled to respectful consideration.” *Puget Sound Power & Light Co.*, 179 Mont. 255, 266, 587 P.2d 1282, 1288 (1978).
27. “All property in this state is subject to taxation, except as otherwise provided.” *Mont. Code Ann. § 15-6-101(1)*.
28. (1) Class four property includes:
- (a) subject to subsection (1)(e), all land, except that specifically included in another class;
 - (b) subject to subsection (1)(e):
 - (i) all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;
 - (ii) appurtenant improvements to the residences, including the parcels of land upon which the residences are located and any leasehold improvements;
 - (iii) vacant residential lots; and
 - (iv) rental multifamily dwelling units. *Mont. Code Ann. §§ 15-6-134(1)(a)-(1)(b)*.
29. (e) all commercial and industrial property, as defined in 15-1-101, and including:

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- (i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;
 - (ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;
 - (iii) commercial buildings and parcels of land upon which the buildings are situated; and
 - (iv) vacant commercial lots. *Mont. Code Ann. § 15-6-134(1)(e)*.
30. (3)(a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class four residential property described in subsections (1)(a) through (1)(d) of this section is taxed at 1.35% of market value. *Mont. Code Ann. § 15-6-134(3)(a)*.
31. (b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:
- (1) lack of subject-matter jurisdiction;
 - (2) lack of personal jurisdiction;
 - (3) improper venue;
 - (4) insufficient process;
 - (5) insufficient service of process;
 - (6) failure to state a claim upon which relief can be granted; and
 - (7) failure to join a party under Rule 19. *Mont. R. Civ. P. 12(b)*.

DISCUSSION

32. For the reasons set forth below, this Board grants the Respondent's Motion to Dismiss for failure to state a claim upon which relief can be granted.
33. Appellants have presented several arguments which they claim collectively establish that they and the Subject Property should not be subject to taxation. The DOR filed a Motion to Dismiss, arguing that Appellants failed to state a claim upon which relief can be granted as the undisputed facts show that the Subject Property is subject to taxation.
34. An asserted claim is subject to dismissal if, as pled, it is insufficient to state a cognizable claim entitling the claimant to relief. M. R. Civ. P. 12(b)(6). Under M. R. Civ Rule 12(b)(6), the court must take all well-pled factual assertions as true and view them in the light most favorable to the claimant, drawing all reasonable inferences in favor of the claim. *Kleinhesselink v. Chevron*, U.S.A., 277 Mont. 158, 161, 920 P.2d 108 (1996). A claim is subject to M. R. Civ. P. 12(b)(6) dismissal only if it either fails to state a cognizable legal theory for relief or states an otherwise valid legal claim but fails to state sufficient facts that, if true, would entitle the claimant to relief under that claim. *Anderson v. ReconTrust Co., N.A.*, 390 Mont. 12, 696, 407 P.3d 692 (2017).

Class Four Property Classification

35. Appellants claim that the DOR misclassified the Subject Property as Class Four residential property. Appellants contend that the Subject Property does not meet the requirements for inclusion in any class of property subject to taxation in Montana and that the property is "nontaxable property." Thus, Appellants claim that the taxable value for the Subject Property should be zero. The complaint does not allege that the DOR made any errors regarding their use of comparable sales or other data in valuing the Subject Property.

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36. All property in this state is subject to taxation, except as otherwise provided.
Mont. Code Ann. § 15-6-101. Class Four property includes... subject to subsection (1)(e), all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class... [and] vacant residential lots.
Mont. Code Ann. § 15-6-134(1)(b).
37. It is undisputed that Appellants owned the Subject Property, located in Flathead County in Montana, during tax years 2023 and 2024. By Appellants' own admission, the Subject Property is a private home owned by the Appellants solely for personal, familial, and domestic purposes, and is not used for the production of income. Appellants' description of their use of the Subject Property can only be reasonably interpreted as a residential use, which places it squarely in the Class Four property classification assigned by the DOR. Appellants have not provided an alternative property classification in which they believe the Subject Property falls under, other than claiming it is "nontaxable property." However, "nontaxable property" is not a property class recognized in Title 15 of the Montana Code Annotated for property taxation purposes. For tax years 2023 and 2024, Appellants received a 100% reduction to their primary residence's property's tax rate due to their inclusion in the Montana Disabled Veterans Property Tax Assistance Program. However, inclusion in the tax assistance program does not make Appellants' properties "nontaxable property" or remove the need for their properties to be classified according to Montana law. In fact, M.C.A. § 15-6-311(1) requires that real property receiving a tax rate reduction under the Disabled Veterans Property Tax Assistance Program be classified as residential property.
38. Appellants rely on the qualifying language in M.C.A. § 15-6-134 which reads "subject to subsection (1)(e)," to support their claim that the Subject Property is not Class Four property. Appellants argue that if the legislature intended to include all property listed under M.C.A. § 15-6-134(1)(a) and (1)(b) as Class Four property, the statute would not need the qualifying language of "subject to

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subsection (1)(e).” Appellants further argue that if a property type listed under subsections (1)(a) and (1)(b) does not meet the “conditions” laid out in subsection (1)(e), the property is not a Class Four property. The Board believes this is a fundamental misinterpretation of the law. Subsection (1)(e) contains no language that could reasonably be interpreted as excluding the properties listed in subsections (1)(a) and (1)(b) or making their inclusion conditional. In fact, subsection (1)(e) does not affect subsections (1)(a) or (1)(b) in any way other than by adding additional property types to those that qualify as Class Four properties. Appellants do not specify which specific portion of subsection (1)(e) they believe excludes the Subject Property from being classified as Class Four property or what supposed “conditions” would exclude the Subject Property from being classified as Class Four property. Therefore, Appellants have failed to state sufficient facts which, if true, would entitle them to relief under this claim.

Falsifying Government Records

39. Appellants claim that the DOR has committed the crime of falsifying government records by ignoring and/or misapplying tax laws to include the Subject Property on the Montana tax roll. Appellants reference their disagreement with the DOR’s interpretation of the “subject to (1)(e)” language contained in M.C.A. § 15-6-134, which Appellants believe exempts their property from being classified as Class Four property. For the above reasons, this Board does not believe the DOR misapplied subsection (1)(e) when classifying the Subject Property. Since the DOR classified the Subject Property as Class Four property, it was properly listed on the tax roll and subject to taxation. Moreover, the DOR provided evidence that it is their policy to never completely remove a property or its owner from the tax roll, even when dealing with tax-exempt organizations such as governmental and charitable entities. Appellants provided no evidence showing that the DOR intentionally falsified their records or acted outside the regular course of business by including the Subject Property on the tax roll. Instead, Appellants seem to rely solely on their

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disagreement of the DOR's interpretation of M.C.A. § 15-6-134 as proof the DOR has falsified their records. Simply disagreeing with the DOR's interpretation of M.C.A. §15-6-134 and classification of the Subject Property as Class Four property does not mean that the DOR falsified records. Thus, Appellants have failed to state sufficient facts which, if true, would entitle them to relief under this claim.

Inalienable Rights

40. Appellants claim that the Subject Property cannot be subject to taxation because Appellants are "exercising their natural, God-given, inalienable, constitutionally protected rights to own property and establish a home for themselves and their family." Appellants point to Article II, Section 3, of the Montana Constitution which states in part, "All persons are born free and have certain inalienable rights. They include... the rights of pursuing life's basic necessities... [such as] acquiring, possessing, and protecting property."
41. This Board disagrees with the above argument. As the DOR correctly noted, this Section of the Montana Constitution does not afford persons the inalienable right to own real property. Instead, it affords the right to pursue the acquisition and possession of property. Appellants cite *Murdock v. Pennsylvania* in support of their contention that they cannot be taxed for exercising an inalienable right. *Murdoch v. Pennsylvania*, 319 U.S. 105, 63 S.Ct. 870 (1943). However, *Murdoch* is inapplicable to the case at hand as it pertains to a First Amendment dispute in which the Supreme Court held that it was unconstitutional to require a Jehovah's witness to pay a license tax that allowed for the door-to-door dissemination of religious texts. Appellants' circumstances are not similar to those in *Murdoch* and Appellants have not included any claims that their freedom of speech, religion, or press has been violated. More to the point, Appellants' obligation to pay property taxes does not conflict with their inalienable right to pursue the acquisition and possession of property. Appellants acknowledged the existence of M.C.A. 15-6-101,

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which states, “All property in Montana is subject to taxation, except as provided otherwise,” but argue that the Subject Property must somehow fit within an exception. However, Appellants provide no explanation of what specific language qualifies the Subject Property as an exception. Therefore, Appellants fail to state a claim upon which this Board can grant relief.

Frivolous Arguments

42. Appellants claim that the DOR has no authority to administer Montana property tax laws against them because they are not “taxpayers” for purposes of property taxation and should instead be considered “nontaxpayers” to which Montana tax laws do not apply. This argument is identical to those commonly advanced in tax protestor rhetoric, sometimes referred to as tax defier rhetoric. These arguments have been rejected and deemed frivolous in numerous cases across the country in both state and federal courts.¹ Referring to frivolous tax arguments, the court in *Crain v. Commissioner*, 737 F.2d 1417, 1417 (5th Cir. 1984) stated, “We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit.” The United States Tax Court set forth reasons courts tend to rely on *Crain* for this proposition in *Wnuck v. Commissioner*, 136 T.C. 498, 501-513 (2011). Such reasons include the potentially limitless number of frivolous anti-tax arguments that could be made, the fact that many of these arguments have already been answered by the courts, and the likelihood that the taxpayer will remain unmoved by the court’s explanation. They also include the potential waste of resources to research, analyze, and explain in writing why each source cited by the taxpayer is inapposite to the issue litigated or is taken out of context. Therefore, we decline to address this argument further.

¹ The IRS provides a summary of common frivolous tax arguments and the caselaw rejecting them on its website. See The Truth about Frivolous Tax Arguments (March 2022) at <https://www.irs.gov/privacy-disclosure/the-truth-about-frivolous-tax-arguments-introduction> (Last visited April 22, 2025.)

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43. Appellants next claim that the DOR committed the crimes of theft and taking by taxing property, which the State has no jurisdiction over, without affording Appellants due process of the law. This Board disagrees. The fundamental requirement of due process is the opportunity to be heard at a meaningful time in a meaningful manner. *Mathews v. Eldridge* 424 U.S. 319, 333, 96 S.Ct. 893, 902 (1976). Appellants have had the opportunity to voice their concerns at multiple stages of this appeal process, including during their AB-26 Informal Review, at the CTAB hearing, and before this Board. As the DOR rightly pointed out, the very existence of this appeal proves that Appellants have not been denied due process of the law. Additionally, taxation constituting a “taking” of property without due process of the law has also been deemed a frivolous argument by the courts. Therefore, we decline to address this argument further.

Commercial Ad Valorem Tax

44. Appellants claim that the Subject Property is being illegally subjected to a commercial ad valorem tax. Appellants argue that the Subject Property is privately owned land used for domestic purposes, which does not produce income. Appellants state that by taxing the Subject Property, the DOR is treating the Subject Property as an article of commerce. Therefore, Appellants argue that the Subject Property does not fit within the definition of a commercial property and should not be assessed a commercial ad valorem tax.
45. All property in Montana is subject to taxation, except as otherwise provided. *Mont. Code Ann. § 15-6-101*. Class four property includes... subject to subsection (1)(e), all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class... [and] vacant residential lots. *Mont. Code Ann. § 15-6-134*. Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, and subsection (3)(b), class four residential property described

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in subsections (1)(a) through (1)(d) of this section is taxed at 1.35% of market value. *Mont. Code Ann. § 15-6-134(3)(a)*.

46. As best this Board can discern, Appellants seem to believe that by applying the residential tax rate to the Subject Property, the DOR is subjecting the Subject Property to an illegal commercial ad valorem tax. Appellants support their claim with definitions of ad valorem tax from sources not recognized by Montana property law. Contrary to Appellants' assertion, the DOR recognizes that the Subject Property does not produce income and has provided evidence that the Subject Property is classified as residential property, not commercial. Furthermore, the DOR provided evidence that it has never applied a commercial tax rate to the Subject Property. Under Montana law, class four residential property is taxed at 1.35% of market value. The DOR provided evidence that they classified the Subject Property as Class Four residential property and applied the residential tax rate applied to the Subject Property. Appellants fail to state sufficient facts showing that the DOR applied an improper commercial ad valorem tax to the Subject Property rather than the standard residential tax rate prescribed under Montana law.

Conclusion

47. Viewed in the light most favorable to the claimant, Appellants fail to put forth sufficient factual allegations or legal basis to support a valid claim for relief. Much of Appellants' argument revolves around their belief that the tax laws of Montana do not apply to them as they somehow enjoy the unique status of being nontaxpayers who own nontaxable property yet provided no evidence to support their claim. It has been established that both the Appellants and the Subject Property reside in the State of Montana and that the Subject Property is used purely for residential purposes. Appellants have not disputed these facts at any point in this appeal process. Instead, Appellants base their claim on unsupported interpretations of the law and case citations which are inapplicable to the issues at hand. Furthermore, Appellants advanced some arguments which have been adjudicated and deemed frivolous by state and federal courts for

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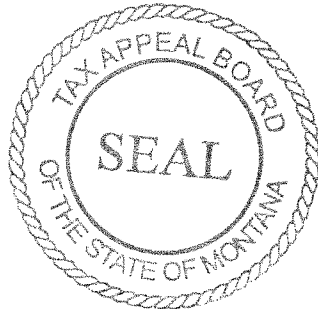
decades. Appellants have not provided this Board with a sufficient legal basis or facts which, if true, would entitle them to relief. Therefore, this Board must grant the DOR's Motion to Dismiss for failure to state a claim upon which relief may be granted.

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ORDER

48. The DOR's Motion to Dismiss is Granted.

Dated this 24th day of April 2025.



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

Travis Brown, Chairman

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

Adam Millinoff, 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

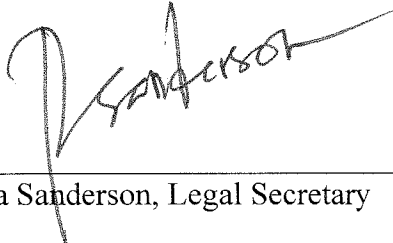
I certify that I caused a true and correct copy of the foregoing Statement of Undisputed Fact, Conclusions of Law, Order, and Opportunity for Judicial Review to be sent by email and United States Mail via Print & Mail Services Bureau of the State of Montana on April 24, 2025, to:

Jeffrey and Christy Doran
P.O. Box 996
Marion, MT 59925

Samuel Kane
State of Montana, Department of Revenue
Legal Services Office
P.O. Box 7701
Helena, MT 59604-7701

Paula Gilbert
State of Montana, Department of Revenue
Property Assessment Division
P.O. Box 8018
Helena, MT 59604-8018

Dori Magar, Secretary
Flathead County Tax Appeal Board
800 S. Main, Room 302
Kalispell, MT 59901



Rina Sanderson, Legal Secretary