

STEVEN B. and THERESA W.
LELAND,

Appellants,

v.

STATE OF MONTANA,
DEPARTMENT OF REVENUE,

Respondent.

CASE No: PT-2024-73

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

STATEMENT OF THE CASE

This is an appeal of a final decision by the Gallatin County Tax Appeal Board (CTAB) denying Steven B. and Theresa W. Leland, (Taxpayers) a reduction in value on the subject property located at 1142 Barnard Ridge Rd, Bozeman, Montana (Subject Property). The Taxpayer appealed that outcome to the Montana Tax Appeal Board (MTAB) on June 28, 2024. We uphold the CTAB’s determination.

ISSUE TO BE DECIDED

Whether CTAB erred in denying the Taxpayers’ request for a value reduction to the Subject Property.

EXHIBIT LIST

Mr. Leland sent an email on January 10, 2025, stating that the Taxpayers’ exhibits are the same as those presented at the Gallatin CTAB hearing. The following evidence was submitted at the CTAB hearing.

Taxpayer CTAB Exhibits:

1. Letter from Barnard Land & Livestock, dated August 23, 2018;
2. Letter from Tarlow Stonecipher Weamer & Kelly PLLC, dated October 16, 2019;
3. Aerial Map of Barnard Land and Livestock Purchases;

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

4. MDOR Answer for Case Number PT-2022-34;
5. 2023 Classification and Appraisal Notice;
6. License Agreement Between Barnard Land & Livestock and Brian Leland, dated June 15, 2009;
7. Offer to Purchase from Edge Equity LLC & Purchase Agreement, dated April 20, 2023;
8. Email from Bill Billman, DOR, dated June 1, 2021; and
9. Additional Notes & Comments.

DOR Exhibits:

- A. Property Record Card;
- B. Land Sales Aerial Photos and Maps;
- C. Realty Transfer Certificates;
- D. MTAB decision, Case Number PT-2020-5, dated September 11, 2020;
- E. Eighteenth Judicial District Court, Gallatin County Order on Petition for Judicial Review, Case Number DV-20-1225CX, dated January 18, 2022;
- F. MTAB FOFCOLO, Case Number PT-2022-34, dated May 2, 2023; and
- G. Eighteenth Judicial District Court, Gallatin County Order on Petition for Judicial Review, Case Number DV-23-614, dated May 29, 2024.

PROCEDURAL HISTORY

The Taxpayers have previously appealed the Subject Property to the Board for tax cycles 2019/2020 and 2021/2022. For the 2023/2024 appraisal cycle the DOR valued the Subject Property at \$142,770, with the land valued at \$ 134,300 and the improvements valued at \$8,470. *Ex. A.* The Taxpayers filed an AB-26, Request for Informal Classification and Appraisal Review, with the DOR. The DOR denied the Taxpayers' request and sent a Form AB-26 Determination Letter to the Taxpayers dated May 9, 2024. *MTAB Dkt 3.* The Taxpayers appealed the DOR's valuation to the CTAB on May 17, 2024, requesting a land value of \$7,975 and an improvement value of \$8,470. *MTAB Dkt 3.* The CTAB hearing was held on June 12, 2024, and the CTAB's

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

decision denying the Taxpayers' application for reduction was sent to the parties on June 12, 2024. The Taxpayers appealed to MTAB on June 28, 2024, per Mont. Code Ann § 15-2-301, requesting a land value of \$8,231, and did not dispute the building and improvements value. *MTAB Dkt 1*. The MTAB hearing was conducted in Helena on January 14, 2025, at which the following were present:

- a. Steven B. Leland, Taxpayer; and
- b. Dave Burleigh, DOR Counsel; Laurie Blue, Lead Appraiser; and Colton Parker, Area Manager.

The record includes all materials submitted to CTAB, a recording of the CTAB hearing, all materials submitted to MTAB with the appeal, additional exhibits submitted by the parties prior to and at the MTAB hearing, and a transcript of the MTAB hearing.

FINDINGS OF 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 is an 11.625-acre improved property owned by Steven B. and Theresa W. Leland. *Ex. A*. The Subject Property is located at 1142 Barnard Ridge Road, Bozeman, Montana and is also identified by its geocode 06-0799-05-2-05-10-0000. *Id*. The Subject Property includes dry recreational structures. *Id*.
3. The DOR valued the Subject Property at \$142,770 for tax years 2023 and 2024, allocating \$134,300 to the land and \$8,470 to the improvements. *Ex. A*. At the June 12, 2024, CTAB hearing, the Taxpayers requested a land value of \$7,975 and an improvement value of \$ 8,470. *MTAB Dkt. 3*. The CTAB denied the Taxpayers' request and maintained the DOR's valuation of \$142,770. *Id*. The Taxpayers appealed to MTAB on June 12, 2024, asserting that the market value of the Subject Property should be \$16,445, requesting that the land value be changed to \$8,231 and that the building and improvements value remains the

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

same. *MTAB Dkt. 1; MTAB Hr'g Tr. 3:1-4*. The DOR maintained that the market value for the Subject Property was \$142,770. *MTAB Hr'g Tr. 2:19-23*.

4. The Taxpayer testified that they received an offer to buy the Subject Property from Edge Equity at a purchase price of \$57,543.75. *CTAB Ex. 7; MTAB Hr'g Tr. 6:2-23*. After receiving the offer, the Taxpayer called Edge Equity and explained that the Subject Property did not have legal access or an easement. *Id.* The Taxpayer stated Edge Equity rescinded its offer because of the lack of access. *Id.* Taxpayer argued that the offer is a good indication of market value because, without legal access, an independent third party placed no value on the Subject Property. *Id.* The Taxpayer has never offered the Subject Property for sale on the open market and stated that Edge Equity “lowballs properties and tries to buy them for investment purposes.” *MTAB Hr'g Tr. 23:3-16*.

5. In the Taxpayer’s prior appeal to MTAB, PT-2020-5, the Board developed a method for valuing the Subject Property using sales of surrounding properties to value the Subject Property. *Ex. 3, B; MTAB Hr'g Tr. 7:1-8:8*. All properties used in the valuation surround the Subject Property and were sold to one buyer, the Taxpayers’ neighbor. *Id.* The Taxpayer argued that when the surrounding properties were sold, they were sold above market value because the Taxpayers’ neighbor believed all surrounding properties including the Subject Property have easements or legal access, which they do not. *Id.* The Taxpayer claims that if his neighbor had been aware of the lack of access, the Taxpayers’ neighbor would have paid significantly less for the properties surrounding the Subject Property. *Id.* Because if the Taxpayers’ neighbor did not know the surrounding properties lacked access, the Taxpayer argues that the use of these sales prices to value his land is unreasonable and creates an artificially higher price for the Subject Property. *Id.* Taxpayer claims that his neighbor was unaware of the lack of access and easements until the purchase of the Humberger property in 2017. *CTAB Ex. 1, B; MTAB Hr'g Tr. 9:4-14, 9:14-*

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

10:1, 20:17-21:7. The surrounding properties were purchased between 1995 and 2017. *Ex. 1, B.*

6. The Taxpayer argued that the surrounding lots were purchased to prevent the access road from being completed and to prevent traffic from driving by his neighbor's house. *MTAB Hr'g Tr. 10:4-17.* Taxpayer testified that his neighbor, who purchased the surrounding properties, asked the Taxpayer to trade his easement "on top of the property" for an easement along Big Gulch Road. *MTAB Hr'g Tr. 11:3-14, 21:10-20.* Taxpayer argued that this is further evidence that his neighbor lacked knowledge relating to the Subject Property's access. *Id.* The Taxpayer admitted on cross-examination that he did not specifically know his neighbor's motivation for offering to swap easements with the Taxpayer. *MTAB Hr'g Tr. 21:21-22:13.* Furthermore, the Taxpayer admitted he is only aware of the evidentiary circumstances surrounding his neighbor's actions. *MTAB Hr'g Tr. 24:3-7.*

7. The Taxpayer argued that his taxable value has increased by 80%, and he believes that lots in Gallatin County without access do not increase in value to the same extent as the rest of the county. *MTAB Hr'g Tr. 10:18-11:2.* The Taxpayer argued that a blanket increase of 80% for Gallatin County must also consider the lack of access. *Id.* The Taxpayer argued that because of the lack of access, the only use of the Subject Property is for grazing. *MTAB Hr'g Tr. 11:14-12:19.* The Subject Property is leased to the Taxpayers' neighbor for grazing. *Id.* While the Taxpayer is not asking for the property to be reclassified as agriculture, he believes the value is more aligned with the market value for agricultural land in Montana as determined by the Department of Agriculture rather than residential land and should be priced similar. *MTAB Hr'g Tr. 11:14-12:19, 14:3-15:2.* The Taxpayer arrived at his market value using the DOR's grazing productivity figures from neighboring properties and the Department of Agriculture's market values for agricultural land in Montana. *Id.* On cross-examination, the Taxpayer could not articulate where the Department of

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

Agriculture obtained its values but did believe they were based on sales prices of agricultural land. *MTAB Hr'g Tr. 12:22-13:8.*

8. On cross-examination, the Taxpayer testified that to obtain his price per acre value, he divided the sales prices of surrounding properties by their acreage but did not account for time or inflation. *Ex. 3, B; MTAB Hr'g Tr. 16:5-14.* The Taxpayer did agree that the Subject Property would most likely be bought by his neighbor and was essentially a one buyer market. *MTAB Hr'g Tr. 19:1-18.* Further, on cross-examination the Taxpayer admitted that the District Court, in DV-20-1225CX, upheld the Board's methodology for valuing the Subject Property in PT-2020-5. *Ex. E; MTAB Hr'g Tr. 22:14-25.*
9. DOR Lead Appraiser, Laurie Blue, testified that the Subject Property has no legal access, and the DOR valued the Subject Property using the methodology the Board adopted in PT-2020-5. *MTAB Hr'g Tr. 25:24-26:10, 27:5-14.* Ms. Blue testified that the improvements were valued using the cost method. *MTAB Hr'g Tr. 28:2-9.*
10. Ms. Blue testified that no land locked parcels that could be used as a comparable property sold prior to the January 1, 2022, lien date, but several land locked parcels have sold after the lien date. *Ex. B, C; MTAB Hr'g Tr. 28:10-19.* The DOR offered the sales in Exhibits B and C to show that the Board's methodology in PT-2020-5 is consistent and fair with other sales of land locked property. *Ex. B, C; MTAB Hr'g Tr. 30:3-12, 31:5-7, 33:16-20.* The DOR did not use Exhibits B and C to value the Subject Property. *Id.* Ms. Blue testified that Exhibits B and C could be used to value the Subject Property in future cycles. *Ex. B, C; MTAB Hr'g Tr. 34:1-16.* Ms. Blue calculated a negative adjustment of 20%-50% for landlocked parcels in Exhibits B and C. *Id.* DOR Area Manager, Colton Parker, testified that by using Exhibits B and C, he calculated a 37.4% reduction from the base rate for landlocked parcels such as the Subject Property. *MTAB Hr'g Tr. 47:7-24.* Mr. Parker testified that

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

currently the Subject Property is valued at less than 30% of the base rate, or alternatively, receives a 70% discount from the base rate. *Id.* Taxpayer objected and claimed that many of the properties contained in Exhibit B and C are under common ownership. *MTAB Hr'g Tr. 30:15-31:2*. Additionally, the Taxpayer pointed out that many of the properties in Exhibits B and C were mining claims where easement applications were available from the Bureau of Land Management. *MTAB Hr'g Tr. 36:1-9*.

11. The DOR used the same methodology for valuing the Subject Property that was established during the prior MTAB appeals and applied the time trend developed for Gallatin County. *MTAB Hr'g Tr. 50:19-51:5*. Mr. Parker estimates that properties in Gallatin County experienced a 59% increase during the 2023/2024 tax cycle. *Id.* When valuing a property, the DOR applies a negative influence first and then a time trend. *MTAB Hr'g Tr. 51:22-7*.

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*. 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*.
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)*.

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

CONCLUSIONS OF LAW

15. To whatever extent the following conclusions of law may be construed as findings of fact, they are incorporated accordingly.
16. “All taxable property must be appraised at 100% of its market value...” *Mont. Code Ann. § 15-8-111*.
17. “[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)*.
18. 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).
19. 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.
20. “‘Assessment formulations’ by [the Montana Tax Appeal Board] should be upheld unless there is a clear showing of an abuse of discretion.” *Peretti v. Dep’t of Revenue*, 2016 MT 105, ¶ 15, 383 Mont. 340, 344, 372 P.3d 447, 450 (citing *O’Neill v. Dep’t of Revenue*, 2002 MT 130, ¶ 23, 310 Mont. 148, 155, 49 P.3d 43, 47); see *Northwest Land & Dev. v. State Tax Appeal Bd.*, 203

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

Mont. 313, 317, 661 P.2d 44, 47 (1983) (overruled on other grounds by *DeVoe v. Dep't of Revenue*, 263 Mont. 100, 866 P.2d 228 (1993)).

21. The term “improvements” includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. *Mont. Code Ann. § 15-1-101(1)(i)*.

DISCUSSION

22. The Taxpayer has appealed to the Board for the third time and proposed new arguments to support the assertion that the Subject Property's taxable value should be lowered. The Board in PT-2020-5 developed an alternative methodology for valuing the Subject Property since there was insufficient sales to use the sales comparison method, and this methodology has been upheld on appeal. The Taxpayer presented several new arguments but did not overcome his burden of proving the DOR made an error. The methodology this Board developed for the Subject Property considers the lack of access and uses the best indicators of value available. The DOR has continued to use the Board's methodology and adjust the price over time to consider time value and property appreciation. The Board upholds the DOR's value of \$142,770 for the 2023/2024 tax cycle.
23. The Taxpayer presented to the Board an unsolicited offer to buy the Subject Property from Edge Equity. The Taxpayer has never put the property on the open market or received any other offers. The Board agrees with the Taxpayer that an offer can indicate value, but the Board believes that sales prices are more indicative of value. The Board's methodology used actual sales of properties surrounding the Subject Property and not subjective offers. Because the DOR and Taxpayer could not find comparable properties, the Board feels the surrounding sales are the best indication of value for the Subject Property. Additionally, the Board is unsure if the offer from Edge Equity was valid, and the Taxpayers' property was never advertised on the open market. The Taxpayer himself stated that Edge Equity would buy the property as an

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

investment property. The lack of interest from Edge Equity because of the access issue indicates that the property should be discounted, but the property still holds value.

24. The DOR presented Exhibits B and C as semi-comparable properties. The exhibits contained landlocked properties and mining claims without access. The properties were not used to value the Subject Property but instead were used as a price comparison. The Taxpayer presented good counterpoints, indicating some properties were under common ownership and that mining easements are available through the Bureau of Land Management. Ms. Blue testified, using Exhibits B and C, that she calculated a 20% to 50% negative adjustment for the Subject Property. Because the Subject Property has a more significant negative adjustment, the Board declined to lower the property's value. Further, the Board disagrees with the Taxpayer that his property should be valued in line with the Department of Agriculture's agricultural market value. While the Subject Property can be used for grazing, it does not meet the requirements to be classified as grazing land; therefore, it is valued based on its market value.

25. The Taxpayer argued that the sales used by this Board in PT-2020-5 were not valid at the time of sale because the Taxpayer's neighbor was unaware that there were no access or easements to the land he was purchasing. The Taxpayer argued that had the purchaser known there was no access, they would have paid much less. The Taxpayer's theory is pure speculation and was not adopted in MTAB case PT-2022-34 when presented. The Taxpayer did not produce any new evidence or testimony to support his theory. The Taxpayer stated on the record that he was basing his theory only on the commitments made by his neighbor. The Board declines to adopt the Taxpayer's arguments as it relies on speculation with no evidence or testimony to support it.

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

26. The DOR has adopted the methodology developed by this Board to value the Subject Property. That methodology has been upheld on appeal and is still the most valid indication of value. The DOR has time-trended the Subject Property, increasing the Subject Property's value as property in Gallatin County appreciates. The Board finds that the DOR's value increase is valid as the DOR testified that the time trend is based on the sale of properties in Gallatin County before the lien date. While the time trend does not explicitly consider access, the Board believes the time trend is equally applied to all properties in Gallatin County. Additionally, the DOR testified that time trends and influences are two separate factors when valuing a property. Lastly, the Board believes the DOR valued the improvement on the property correctly. The Taxpayer did not present any convincing arguments that would allow this Board to lower the value of the improvements. The improvements were present on the lien date; they have value and a cost to construct them.

BEFORE THE MONTANA TAX APPEAL BOARD

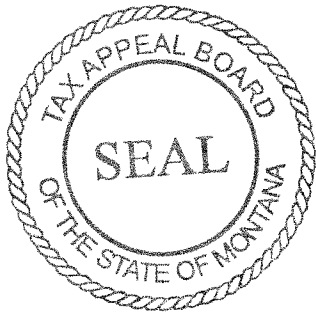
STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

ORDER

- 27. The Taxpayers' appeal is denied

- 28. The DOR is ordered to value the subject Property's land at 134,300 and the improvements at \$8,470 for a total value of \$142,770.

Dated this 17th day of March 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)*.

BEFORE THE MONTANA TAX APPEAL BOARD

STEVEN B. and THERESA W. LELAND v. STATE OF MONTANA, DEPARTMENT OF REVENUE

Certificate of Service

I certify that I caused a true and correct copy of the foregoing Findings of Facts and Conclusions of Law to be sent by email and United States Mail via Print & Mail Services Bureau of the State of Montana on March 17, 2025, to:

Steven B. and Theresa W. Leland
528 N. Bozeman Ave.
Bozeman, MT 59715

Dave Burleigh
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 59604-8108

Katie Farr, Secretary
Gallatin County Tax Appeal Board
P.O. Box 160088
Big Sky, MT 59716



Rina Sanderson, Legal Secretary