

FEB 24 2025

Montana Tax Appeal Board

STATE OF MONTANA,  
DEPARTMENT OF REVENUE,

Appellant,

v.

LEON JACOBS ENTERPRISES INC.,

Respondent.

CASE №: PT-2024-76

**ORDER GRANTING  
DEPARTMENT OF REVENUE'S  
MOTION FOR SUMMARY  
JUDGMENT, STATEMENT OF  
FACTS, CONCLUSIONS OF LAW,  
ORDER, AND OPPORTUNITY FOR  
JUDICIAL REVIEW**

**STATEMENT OF THE CASE**

This is an appeal of a final decision by the Fergus County Tax Appeal Board (CTAB) partially granting Leon Jacobs Enterprises Inc. (Taxpayer) a reduction in value on the subject property located at 80663 US Highway 87, Lewistown, Montana (Subject Property). The Department of Revenue (DOR) appealed that outcome to Montana Tax Appeal Board (MTAB) on August 8, 2024.

The DOR filed an Unopposed Motion for Summary Judgment and Brief in Support on December 13, 2024. The matter is fully briefed, and the Board reviewed the submissions of both parties. Because no genuine issue of material fact exists and the DOR is entitled to judgment as a matter of law, the Board grants the DOR's Motion for Summary Judgment and reverses the CTAB determination.

**ISSUE TO BE DECIDED**

Whether CTAB erred in granting a partial reduction in value to the Subject Property.

**EXHIBIT LIST**

The DOR submitted the following exhibits with its Unopposed Motion for Summary Judgment and Brief in Support<sup>1</sup>:

- A. Form AB-26, Request for Informal Classification and Appraisal Review;
- B. Form AB-26 Determination Letter;
- C. Form 401, Appeal to County Tax Appeal Board;
- D. 2024 Revised Property Classification and Appraisal Notice;
- E. CTAB Decision;
- F. 2024 Property Record Card;
- G. Affidavit of Jeanine Crouch;
- H. 2022 Land Valuation; and
- I. Emails between Taxpayer and DOR.

**PROCEDURAL HISTORY**

The DOR valued the Subject Property at \$619,400 for the 2023/2024 appraisal cycle, with the land valued at \$309,772 and the improvements valued at \$309,628. *Ex. C.* The Taxpayer filed an AB-26, Request for Informal Classification and Appraisal Review, with the DOR on January 5, 2023, stating that the value of the Subject Property had increased by 92% and the taxes had increased by 58%. *Ex. A.* The Taxpayer's Representative, Doug Stephens, requested information on the DOR's valuation process and capitalization rate. *Id.* The Form AB-26 was submitted more than 30 days after the date on the Classification and Appraisal Notice and was untimely for the 2023 tax year. *Id.* However, the submission was timely for the 2024 tax year, thus, any changes to the valuation of the property would only apply to the 2024 tax year. *Id.* The DOR sent a Form AB-26 Determination Letter to the Taxpayer dated April 2, 2024, partially granting the Taxpayer's request and reducing the improvement value to \$273,080 and maintaining the land value of \$309,772, for a total value of \$582,852. *Ex. B.* The Taxpayer appealed the DOR's valuation to the

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<sup>1</sup> The Taxpayer did not submit exhibits to MTAB.

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CTAB on April 29, 2024, requesting a land value of \$80,000 and an improvement value of \$307,500. *Ex. C.* After a hearing on July 10, 2024, the CTAB partially granted the Taxpayer's application for reduction, reducing the value of the improvements from \$309,722 to \$217,722. *Ex. E.* The DOR appealed to MTAB on August 8, 2024, per Mont. Code Ann § 15-2-301. *MTAB Dkt 1.* The DOR filed an Unopposed Motion for Summary Judgment and Brief in Support on December 13, 2024. *MTAB Dkt 6.* The Taxpayer did not respond. The Board considers the matter fully briefed and ready for the Board's review and decision.

### STATEMENT OF UNDISPUTED OF FACTS

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 a commercial property owned by Leon Jacobs Enterprises Inc. *Ex. F.* It is located at 80663 US Highway 87, Lewistown, Montana and is also identified by its geocode 08-2467-16-3-03-01-0000. *Id.* The Subject Property consists of improvements and land totaling 2.796 acres in size. *Id.*
3. Mr. Stephens, the president of Leon Jacobs Enterprises Inc., represented the Taxpayer in this matter. *MTAB Dkt. 4.*
4. The DOR appraised the Subject Property improvements at \$273,130 using the cost approach. *Ex. F.*
5. The DOR appraises land using statistical models developed from market data. *Ex. G.* The DOR determined that commercial land values increased significantly in the Subject Property's location based on two nearby sales that suggested a statistically significant influence on commercial land values in that area. *Ex. G, H.* The DOR determined this adjustment accurately captures the

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- change in market value on the Subject Property, which indicates the influence applied to the Subject Property is valid. *Ex. G.*
6. The Subject Property's land value calculated using the formula  $Y = MX + B$ . *Ex. G.* In this equation, Y represents the land value, X represents the incremental adjustment for properties larger or smaller than the base size of 1 acre, and B represents the base rate. *Id.* Because the Subject Property's land size is 2.796 acres, the equation used to calculate the Subject Property's land value is:  $Y = 1.796 \text{ acres} \times \$14,611 + \$283,467$ , which resulted in a value of \$309,722. *Ex. F, G.*
7. On September 12, 2024, the Taxpayer communicated to the DOR that he wished to withdraw his opposition to the DOR's appeal. *Ex. I.* On September 26, 2024, the Taxpayer communicated to the DOR that he would not oppose the DOR's Motion for Summary Judgment. *Id.*

### JURISDICTION AND STANDARD OF REVIEW

8. 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.
9. 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.
10. 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**

11. To whatever extent the following conclusions of law may be construed as findings of fact, they are incorporated accordingly.
  
12. Summary judgment shall be granted if the pleadings, discovery and disclosure materials on file, and any affidavits show that no genuine issue as to any material fact exists and that the movant is entitled to judgment as a matter of law. M.R.Civ.P. 56(c)(3).
  
13. Once the moving party establishes no genuine issue of material fact exists, the opposing party must identify a genuine issue of material fact. *Lucas Ranch, Inc. v. Mont. Dept. of Revenue*, 2015 MT 115, ¶ 12, 378 Mont. 28, 347 P.3d 1249 (citing *Lorang v. Fortis Ins. Co.*, 2008 MT 252, ¶ 39, 345 Mont. 12, 192 P.3d 186). To identify a genuine issue of material fact, the opposing party must set forth specific facts and cannot rest upon the allegations or denials of the pleadings. *Lucas Ranch, Inc.*, ¶ 12; M.R.Civ.P. 56(e).
  
14. “A material fact is one that involves the elements of the cause of action or defense to the extent that it requires resolution by the trier of fact.” *Hopkins v. Superior Metal Workings Sys., LLC*, 2009 MT 48, ¶ 5, 349 Mont. 292, 203 P.3d 803.
  
15. “All taxable property must be appraised at 100% of its market value....” Mont. Code Ann. § 15-8-111.
  
16. “[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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17. 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).
18. 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.
19. “‘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 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)).
20. “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)).
21. “[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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22. “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).
23. “[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).
24. The Board “may not amend or repeal any administrative rule of the department,” but may enjoin its application if the Board concludes the rule is “arbitrary, capricious, or otherwise unlawful.” Mont. Code Ann. § 15-2-301(5).
25. 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).
26. The Legislature intended the Department to utilize a number of different approaches or combination of approaches, including the income approach, sales comparison approach, and cost less depreciation approach, depending on the market where the appraisals take place, when it assesses property and estimates market value. *Albright v. State*, 281 Mont. 196, 208-09, 933 P.2d 815, 823 (1997).

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**DISCUSSION**

27. The Board finds that the DOR appraised the Subject Property correctly using the cost approach and followed policies and procedures in Montana Law. The DOR valued the Subject Property's land using the sales comparison method. The DOR has been authorized to use several approaches to value, including the cost and sales comparison methods. The DOR's use of the computer-assisted land pricing model using commercial sales in the Subject Property's area was proper. The Board finds that the DOR correctly valued the Subject Property land and improvements.
  
28. The Taxpayer did not contest any of the facts presented by the DOR, and the Taxpayer did not oppose the summary judgment motion. The DOR has established that there are no genuine issues of fact. The DOR used evidence in the record and did not rely on allegations. DOR's motion established that no dispute exists as to material facts and shifted the burden to the Taxpayer to establish facts that the Board can use to conclude a dispute exists. The Taxpayer failed to refute the legal presumption in the DOR's favor. The DOR's uncontested facts make the Board believe the DOR valued the Subject Property's improvements correctly using the cost approach and using commercial land sales to value the Subject Property's land. The DOR is entitled to judgment as a matter of law.



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**ORDER**

29. The DOR's Motion for Summary Judgment is granted
30. The DOR is ordered to set the value of the Subject Property at \$309,722 for the land and \$582,852 for the improvements.

Dated this 24th day of February 2025.



Travis Brown, Chairman

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 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 February 24, 2025, to:

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

Doug Stephens  
Leon Jacobs Enterprises Inc.  
367 Deer Meadow Tr.  
Lewistown, MT 59457

Paula Gilbert  
State of Montana, Department of Revenue  
Property Assessment Division  
P.O. Box 8018  
Helena, MT 59604-8108

Abbie Craig, Secretary  
Fergus County Tax Appeal Board  
712 W Main St., Suite 204  
Lewistown, MT 59457



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Rina Sanderson, Legal Secretary

FEB 25 2025

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**NOTICE OF ERRATA**

The Board issued its Order Granting Department of Revenue’s Motion for Summary Judgment, Statement of Facts, Conclusions of Law, Order, and Opportunity for Judicial Review on February 24, 2025. The parties are hereby notified that the Order contains a clerical mistake. A clerical mistake may be corrected by the Board at any time pursuant to Rule 60(a) of the Montana Rules of Civil Procedure.

On page 9 ¶ 30, the Board mistakenly wrote, “The DOR is ordered to set the value of the Subject Property at \$309,722 for the land and \$582,852 for the improvements.” Page 9 ¶ 30 should read “The DOR is ordered to set the value of the Subject property at 309,722 for the land and \$273,130 for the improvements for a total value of \$582,852.”

Dated this 25th day of February 2025.



Travis Brown, Chairman

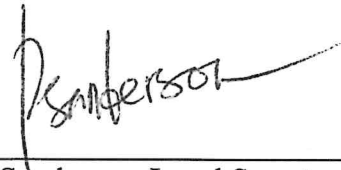
**BEFORE THE MONTANA TAX APPEAL BOARD**  
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**Certificate of Service**

I certify that I caused a true and correct copy of the foregoing *Notice of Errata* to be sent by email and United States Mail via Print & Mail Services Bureau of the State of Montana on February 25, 2025, to:

Dave Burleigh  
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Rina Sanderson, Legal Secretary