BEFORE THE STATE TAX APPEAL BOARD

OF THE STATE OF MONTANA

ALICE PETERSON & NELLY CHANEY,	)	
	)	DOCKET NO.: PT-1997-103
Appellants,	)	
	)	
-vs-	)	
	)	
THE DEPARTMENT OF REVENUE OF THE STATE OF MONTANA	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER and OPPORTUNITY FOR JUDICIAL REVIEW
Respondent.	)	

The above-entitled appeal was heard on the 23rd day of April, 1998, in the City of Helena, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law. The taxpayers, represented by Alice Peterson-Liebel and Kermit Liebel, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser Don Blatt, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received, and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits, and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper, and sufficient notice was given of this matter and of the time and place of the hearing. All parties were afforded the opportunity to present evidence, oral and documentary.

2. The property involved in this appeal is described as follows:

> Land only, Lots 1, 2 and 4 of Block 64, Helena Townsite, Lewis and Clark County, State of Montana.

3. For the 1997 tax year, the DOR appraised the subject property at a value of $7,560.

4. The taxpayers appealed this value to the Lewis and Clark County Tax Appeal Board requesting a value of $1,260.

5. In a February 13, 1998 decision, the county board disapproved the taxpayer s appeal.

6. That decision was appealed to this Board on March 6, 1998 by taxpayer Alice J. Peterson-Liebel who stated: Additional information from the City of Helena is being submitted to substantiate my position that my property has no potential for future building sites due to several factors and has been over-evaluated for property tax purposes.

//

TAXPAYERS CONTENTIONS

Mrs. Peterson-Liebel testified that Lots 1, 2, and 4, are contiguous with other property owned by them and are inaccessible except by foot. The platted road access has not been developed. The city engineer's office informed her that the city had no plans to develop the road. The topography is similar to a portion of that of a prior appeal (PT 1997-102) and is considered part of the watershed for Reeder's Alley. She stated that they are not building lots and can be described as part of a "coulee."

Mr. Leibel stated that the City granted a portion of the platted road immediately north of the subject property to another property owner, thereby reducing the width of the right-of-way and resulting in a width which would be sub-standard for a street.

DOR'S CONTENTIONS

Mr. Blatt testified that the subject property, while it appears to be contiguous with other property owned by the taxpayers, is separated by a platted road. He stated that the existence of this road, while it is not developed, deemed it impossible to combine the subject property with the taxpayers' property in a prior appeal, PT 1997-102. He stated that, after the development he has seen in the past few years, it would

not be impossible for the platted road to be built.

He testified the three lots, which contain a total of 12,600 sf, were valued at $.60 sf., for a total value of $7,560.

DISCUSSION

Lack of accessibility, topography, lack of utilities, and power lines and easements are major factors that negatively impact the land value of the subject property.

It is the decision of this Board that the subject property be valued consistently with that of the undeveloped portion of the taxpayers property in PT 1997-102, and which is separated from the subject property by an undeveloped platted road.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. 15-2-301 MCA.

2. The appeal of the taxpayers is hereby granted in part and denied in part and the decision of the Lewis and Clark County Tax Appeal Board is modified.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the decision of the Lewis and

Clark County Tax Appeal Board is modified and, for the 1997 tax year, the subject property shall be valued at $.50/sf, a total of $6,300.

Dated this 21st day of May, 1998.

BY ORDER OF THE
STATE TAX APPEAL BOARD

_____
PATRICK E. MCKELVEY, Chairman

(S E A L)

_____
GREGORY A. THORNQUIST, Member

_____
LINDA L. VAUGHEY, 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.