BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

CONSONANTS, INC, Appellant, -vs- THE DEPARTMENT OF REVENUE OF THE STATE OF MONTANA, Respondent	)	DOCKET NO.: PT-2005-8 FACTUAL BACKGROUND, CONCLUSIONS OF LAW, ORDER and OPPORTUNITY FOR JUDICIAL REVIEW

The above-entitled appeal was heard on March 7, 2006, in Thompson Falls, Sanders County, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (Board). The notice of the hearing was duly given as required by law. Consonants, Inc., represented by Curtis Cox (agent), presented testimony in favor of the appeal. The Department of Revenue (DOR), represented by Appraiser Ed Thompson, presented testimony in opposition to the appeal.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony was presented and exhibits were received.

The Board denies the taxpayer’s appeal based on insufficient evidence by the taxpayer to support his claim and the existence of

substantial, credible evidence to support the values determined by the DOR.

STATEMENT OF ISSUE

The issue before this Board is the market value of the subject property.

FACTUAL BACKGROUND

1. Due, proper, and sufficient notice was given of this matter. All parties were afforded opportunity to present evidence, oral and documentary.
2. The subject property is described as follows:

   Tract in N2N2 & S2N2 Govt Lot 1, Plat 0. 19 acres and improvements located thereon. Geo Code – 35-3094-31-2-01-80-0000. Assessor code – 1618.

3. Consonants, Inc. (PT-2000-10) appealed this property to this Board for tax year 2000, and the appeal was denied.
4. Consonants, Inc. did not appeal that decision to the District Court pursuant to Section 15-2-303, MCA.
5. The Department of Revenue established a new market value for the current cycle (2003-2009) at a value of $19,550 for the land and an improvement value of $142,160 for a total value of $161,710.
6. The Sanders County Tax Appeal Board received an appeal on June 6, 2005 in the name of Consonants, Inc.

7. The County Board held a hearing and issued its decision on November 14, 2005, denying Consonants, Inc.'s request for a reduction in value, stating:

> Per Montana Code Annotated 15-7-139 (7) this Board cannot make adjustments to this property due to the taxpayer's refusal to allow inspection of the property.

8. Consonants, Inc. appealed that decision to this Board on December 19, 2005.

9. The property record card (exhibit A) shows ownership in the name of Lee McDonald, presumably a prospective purchaser under a tax deed.

TAXPAYER'S CONTENTIONS

Mr. Cox asserts that the value assigned by DOR for the improvements to the property exceeds market value. At one point Mr. Cox offered the opinion that the house was worth "less than $100,000".

DOR'S CONTENTIONS

The DOR presented exhibits and testimony with respect to market value for the property, although as noted it was denied access to the property for this appraisal cycle and had to use previously acquired information together with updates as compiled by an inspection of the property from a public road that runs nearby the property.

Exhibit A for the DOR, in testimony presented by Appraiser Ed Thompson, shows that the land value was established using a figure of

$12,500 for the one-acre set-aside for the residence. The remaining 18 acres were valued as forestland resulting in an additional value of $7,050. The total land value established by the DOR is $19,550. The single-family residence and outbuildings were appraised by the cost approach to value at $142,160.

The DOR's property record card (PRC), exhibit A, describes the subject property as:

- Land – 1 acre $12,500
- 18 acres – timberland $ 7,050
- Land value - $ 19,550
- Improvements
- Single family dwelling with various outbuildings.
- Year built – 1995.
- Physical condition – Good.
- Effective Age – 1995.
- Condition/Desirability/Utility – Average.
- Cost approach to value.

Replacement Cost New (residence)	$131,890	
Percent Good – 93.6%		
Depreciation (6.4%)	($ 8,500)	
Replacement Cost New Less Depreciation		$123,390
Outbuildings		$ 18,770
Total property value		$161,710

Exhibit B is a picture of the subject property, a two-story house, taken from the public road at the time of the most recent appraisal.

Exhibits C, D, and E present information on properties comparable to the subject property in the vicinity of Plains, Montana, for which sales data were available. These sales were presented for comparative purposes only since the appraisal of the

subject property was based on the cost approach.

Exhibit C is a picture of the subject and comparison properties indicating that they are roughly similar in size and appearance and placed in a rural setting. Exhibit D provides greater detail for comparison purposes. Finally, Exhibit E was presented to indicate the location of these properties in relation to each other and to the town of Plains.

DOR through Appraiser Ed Thompson asserts that the values on this property are fully justified based on the amount of current information they were able to acquire and verified by a look at comparable houses in rural settings in the immediate vicinity of the subject property.

BOARD'S DISCUSSION

The appellant's choice to present no objective evidence to support his opinion of value shifts our focus to whether the DOR is able to make a minimal showing in support of its appraisal. This they have clearly done.

Appraiser Ed Thompson testified that he used every reasonable means at his disposal to update the appraisal on the property for the current cycle, which of course was difficult to do due to the denial of entry onto the property by the taxpayer. The pictures taken from a public road, entered as Exhibit B, show the property and improvements.

Although the DOR did not rely on the sales comparison approach in determining the market value, it did identify comparable sales (Exhibits C, D, and E). These were offered by DOR to lend weight to their value conclusion for the subject property. The following table summarizes exhibit D:

	Subject	Comp #1	Comp #2	Comp #3	Comp #4	Comp #5
Land Size (acres)	19	9.47	15.65	7.5	20	20
Year Built	1995	1996	1993	1981	1998	1991
Effective Age	1995	1996	1993	1981	1998	1991
Condition /Desirability/Utility	Average	Average	Good	Average	Average	Good
Net Finished Living Area (SF)	2,648	2,341	2,716	1,872	1,716	2,960
DOR Total Value	$161,710	NA	NA	NA	NA	NA
Sale Price ($)	NA	$153,000	$295,000	$155,000	$259,900	$320,000
Unit Value ($/SF)	**$61.07**	**$65.39**	**$108.62**	**$82.80**	**$151.46**	**$108.11**

The Board notes that the subject property may be superior in some respects and inferior in other respects, but the DOR's value as determined by the cost approach appears reasonable.

For his part, Mr. Cox did not provide any substantial evidence to support a different valuation. The Taxpayer has informed the DOR that a physical inspection of this property was out of the question. Therefore, the DOR must rely on the best information it has in its possession at the time of reappraisal to determine a value for taxation purposes. Therefore, the only credible evidence in the record is that of the DOR.

CONCLUSIONS OF LAW

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

2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

3. ARM 2.51.403 (2), With respect to taxable real property and improvements thereon, the decision of the state tax appeal board shall be final and binding unless reversed or modified by the district court upon judicial review. If the decision of the state tax appeal board is not reviewed by a district court, it is final and binding for subsequent tax years unless there is a change in the property itself or circumstances surrounding the property which affects its value.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Sanders County by the local Department of Revenue office at the values of $19,550 for the land and $161,710 for the improvements for tax year 2005. The appeal of the taxpayer is therefore denied and the decision of the Sanders County Tax Appeal Board is affirmed.

Dated this 23rd day of May 2006.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

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GREGORY A. THORNQUIST, Chairman

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JOE ROBERTS, Member

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SUE BARTLETT, 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.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 23rd day of May, 2006, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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