

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

VISTA VILLAGE MHP, LLC)	
and RON MORRIS, member,)	
)	
Plaintiffs,)	TC-MD 190129N
)	
v.)	
)	
UMATILLA COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs appealed the 2018-19 real market values 40 manufactured homes (subject properties) located in the Vista Village Park. A trial was held on September 24, 2019, in the courtroom of the Oregon Tax Court. Ron Morris (Morris) appeared and testified on behalf of Plaintiffs. Michael Verdin (Verdin) appeared and testified on behalf of Defendant. Plaintiffs' Exhibits 1 to 4 and Defendant's Exhibits A to E were admitted by the court.¹

I. STATEMENT OF FACTS

The subject properties are 40 manufactured homes owned by Plaintiffs and located within Vista Village park. There are 20 single wide homes and 20 double wide homes. (*See* Ptf's Ex 4.) Plaintiffs purchased the subject properties between 2007 and 2017, some directly from prior owners and some from auctions or similar distressed sales. (*See id.*) Some of the homes were already sited in Vista Village and others were moved to Vista Village at a cost of approximately \$2,500 each. (*See, e.g., id.* at 24.) Morris remodeled many of the homes, making some or all of the following updates: floor coverings, decks, windows, siding, paint, cabinets, and roofs. (*See*

¹ Defendant objected to the relevance of Plaintiffs' Exhibit 1, documenting the condition of the Vista Village Park. Defendant maintains that the park's condition relates to the real market value of the park, but not the homes within it. Plaintiffs disagree, arguing that the condition of the park explains why homes in the park sell for less than homes in other parks. The court will consider the objection in weighing the evidence.

id.) He testified that those updates do not last long and, especially for the homes purchased in 2007 or 2008, were nearly exhausted as of the January 1, 2018, assessment date. The homes were built between 1965 and 1995. Morris testified that the year a home was built impacts not only the condition of the home but also the quality. Home built before 1976 were not subject to Housing and Urban Development (HUD) standards and are worth less.

Specific details about each home is listed in the following chart, including Plaintiffs' requested real market values, based on a combination of Plaintiffs' purchase price,² updates done, moving costs, and Morris' judgment based on his market experience:

Account	Site	Size ³	Year built	Updates	Sale price	Sale date	Distress	2018-19 RMV	Ptfs' RMV
148069	13	S 720sf	1972	Windows 2009	\$3,000	2009	Default ⁴	\$5,280	\$2,500
146958	84	S 938sf	1978	Roof 2018	\$3,500	2013		\$7,900	\$4,000
128780	27	S 980sf	1978	None	\$1,650	2016		\$8,350	\$3,000
141223	86	S 959sf	1979	Extensive 2013	\$2,500	2013 ⁵		\$9,950	\$7,000
142386	3	S 924sf	1982	Floor, deck 2010; roof 2013	\$1,500	2010		\$9,940	\$4,000
162544	76	S 980sf	1995	Multiple 2007	\$4,000	2007	Yes	\$23,180	\$8,000
162490	64	S 924sf	1975	Multiple 2008	\$2,700	2008	Yes	\$10,620	\$4,000
123949	16	S 924sf	1974	Roof 2015		2008	Default	\$7,820	\$2,500
119428	22	S 854sf	1971	Multiple 2008-09	N/A	N/A		\$12,610	\$8,000
123970	57	S 470sf	1965	Multiple 2012	\$500	2012		\$11,360	\$3,500
146663	89	S 924sf	1975	Multiple 2008	\$2,000	2008		\$11,290	\$4,000
144896	59	S 756sf	1967	Extensive 2013	\$925	2010		\$15,730	\$4,000
147658	77	S 728sf	1981	Multiple 2012	\$2,500	2012		\$12,280	\$6,000
148071	80	S 924sf	1974	Extensive 2012	\$2,500	2010		\$10,260	\$7,000
128526	29	S 840sf	1973	None	\$3,000	2016		\$7,010	\$3,000
149421	65	S 924sf	1975	Multiple 2012	\$1,500	2012	Default	\$11,120	\$5,000
128633	60	S 840sf	1973	Multiple 2013	\$2,500	2013		\$15,270	\$4,000
146768	5	S 784sf	1981	None	\$2,000	2010		\$8,160	\$3,000
128610	78	S 672sf	1971	Multiple 2012	\$300	2012		\$13,250	\$3,000

² Morris testified that there have been over 77 sales in the park since 2008 and Plaintiffs purchased over 50 of them to update and convert to rentals.

³ "S" refers to single-wide and "D" refers to double-wide.

⁴ "Price" is balance owed on default. Morris testified that he "inherited" (was assigned) nine contracts when he purchased the park in 2007 and all but one defaulted. (*See* Ptf's Ex 2 at sale 4.) He testified that owner-carried contracts are typical because buyers cannot obtain bank financing, but the resulting sale prices and interest rates are high resulting in frequent defaults. (*See* Ptf's Ex 2 (contract sales from Vista Village).) The sellers repossess the homes and sell them again.

⁵ There was also a sale for \$7,000 in 2010. (Ptf's Ex 4 at 4-3.)

151428	58	S 576sf	1974	Multiple 2012	\$1,000	2011		\$13,120	\$2,000
144663	41	D 1188sf	1984	Moved 2008	\$3,810	2008	Yes	\$17,610	\$9,000
124029	68	D 1344sf	1975	Multiple 2016	\$5,000	2016		\$20,010	\$6,000
150488	30	D 864sf	1981	Roof 2013	\$2,000	2008	Default	\$12,730	\$7,000
164624	75	D 1120sf	1967	Multiple 2014	\$1	2012	Dealer	\$16,120	\$7,000
163651	91	D 1848sf	1980	Moved 2010	\$7,500	2010		\$24,430	\$10,000
155003	56	D 1344sf	1980	Multiple 2007	\$5,000	2007	Yes	\$15,480	\$8,000
163649	25	D 1200sf	1971	Moved 2010; extensive 2011	\$1,000	2010	Dealer	\$22,280	\$9,000
143516	17	D 1368sf	1982	Multiple 2012	\$450	2012	Yes	\$18,550	\$8,000
149300	7	D 1248sf	1983	None	N/A	N/A		\$14,820	\$8,000
801172	12	D 1536sf	1977	Multiple 2008, 2012	\$6,000	2008		\$20,210	\$10,000
162491	81	D 1584sf	1976	Multiple 2008	\$3,500	2008		\$20,080	\$10,000
163650	54	D 1536sf	1975	Multiple 2010	\$1,000	2010	Dealer	\$22,230	\$9,000
150819	35	D 1848sf	1990	Multiple 2017	\$1,500 ⁶	2017		\$32,230	\$10,000
163648	15	D 1512sf	1987	Multiple 2010	\$900	2010		\$20,260	\$8,000
128639	2	D 1440sf	1975	Roof prior to sale	\$10,000	2013		\$15,000	\$10,000
162546	32	D 1344sf	1979	Multiple 2008	\$5,000	2008	Yes	\$16,160	\$8,000
164447	19	D 1064sf	1995	Multiple 2008	\$5,000	2008	Yes	\$29,970	\$12,000
128542	47	D 960sf	1973	Multiple 2012	\$5,000	2012		\$14,670	\$8,000
162545	31	D 1440sf	1981	Multiple 2008	\$500	2008	Yes	\$15,690	\$7,000
146103	62	D 1456sf	1981	None	\$9,300	2018	Default	\$28,870	\$10,000

Morris testified that the subject properties' values were negatively impacted by their location in Vista Village park. It is an 18-acre site on a steep hill with some roads at a 15 percent grade. (*See* Ptf's Ex 1 at 1-10.) The steepness of the roads makes it difficult to get in and out of the park, especially in the winter. The roads are in poor condition with potholes. Morris received an estimate of \$200,000 to fix the potholes and road problems. He testified that the park is also negatively impacted by crime, citing police activity in the park from 2016 through 2019. (*Id.* at 11-23.) In Defendant's view, those issues go to the value of the park (real property) rather than the value of the homes (personal property).

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⁶ Morris testified that this property was on the market for 10 months asking a price of \$10,000.

Plaintiffs rent the subject properties to tenants for \$650 or \$750 per month, including space rent of \$350 per month. (See Def’s Ex D at 1.) Morris testified that many other park owners do not rent because maintenance is expensive. He testified that homeowners in the park are not permitted to rent their homes, which is typical for the industry.

A. *Plaintiffs’ Additional Value Evidence*

Morris presented sales from within the park purchased by third parties. (See Ptf’s Ex 3.)

Sale	Size	Year	Condition	Date	Price	Price per sf	Contract	2018-19 RMV
1	1026sf	1999		July 2019	\$17,000	\$16.57	Yes	\$26,840
2	788sf	1968	2011 remodel	2014, 2019	\$3,000	\$3.81		\$8,710
3	720sf	1973		2012, 2014, 2019	\$2,800	\$3.89		
4	804sf	1971	“pretty rough”	April 2019	\$500	\$0.62		\$2,000
5	924sf	1972	“good for age”	2019	\$8,000	\$8.66	Yes	\$10,040
6	1152sf	1975		November 2015	\$8,000 ⁷	\$6.94		\$12,290
7	896sf	1974		December 2015	\$3,000	\$3.35		\$12,550
8	648sf	1963	“reasonable”	June 2013	\$2,500	\$3.86		\$6,020
9	1680sf	1979	“good”	April 2014	\$10,000	\$5.95		\$15,350
10	896sf	1973		January 2012	\$4,000	\$4.46		\$6,460
11	672sf	1974		June 2011	\$5,500	\$8.18		\$5,390
12	938sf	1993		August 2010	\$6,343 ⁸	\$6.76		\$22,580
13	924sf	1975		July 2008	\$6,000	\$6.49		\$10,400
14		1967		November 2005	\$300			\$2,500

B. *Defendant’s Value Evidence*

Verdin testified that he is bound to appraise real and personal property accurately in accordance with the real market value standard under ORS 308.205 so he removed non-arm’s-length sales from consideration. He did not find Plaintiffs’ purchases of the subject properties to be reliable evidence of value because they were virtually unsellable at the time of purchase and Plaintiffs performed work or remodeling following purchase to make them appealing. (See, e.g., Def’s Ex A at 1-2.) With respect to other sales from Vista Village, Verdin found them too far

⁷ Morris testified that he offered \$5,000 on this home.

⁸ Morris testified that he offered \$5,000 on this home.

removed from the January 1, 2018, assessment date. He looked for sales from January 1, 2017, through roughly March 2018.

Verdin performed a sales comparison approach for the single wide homes and a second analysis for the double wide homes. (*See* Def’s Exs B-C.) Morris criticized Verdin’s sales comparison approaches because three of his sales were seller-carried contract sales. Verdin testified that Defendant does not distinguish between cash and contract sales so long as the sales are between a willing buyer and seller; “a sale is a sale.”

1. *Single wide homes sales comparison approach*

Sale	Distance	Size	Actual year	Effect. year	Price	Date	Price per sf	Adj. Price	Adj. Price per sf
1	0.88 miles	788sf	1966	1966	\$5,000	2/18	\$6.35	\$5,000	\$6.35
2	0.88 miles	1008sf	1966	1980	\$4,000	5/17	\$3.97	\$5,800	\$5.75
3	29 miles	775sf	1965	1965	\$4,500	11/17	\$5.81	\$4,500	\$5.81
4	0.88 miles	624sf	1970	1970	\$7,500	9/17	\$12.02	\$7,500	\$12.02
5	3 miles	924sf	1994	1994	\$20,000	11/17	\$21.65	\$19,170	\$20.75
6	3 miles	1008sf	1978	1978	\$10,000	1/17	\$9.92	\$10,000	\$9.92

(Def’s Ex B.)

Verdin wrote that sale 1 was “very comparable to all subject single wides”; sale 3 was “[v]ery similar to many of the older subject’s single wides”; and sale 6 was “very similar to the older non-remodeled subject single wides[.]” (Def’s Ex B at 1.) Sale 5 was class 4+ whereas the other sales and the subject properties were all class 4. (*See id.*) In his reconciliation, Verdin found the average price for single wide homes was \$10.24 per square foot based on “sales data” and \$13.45 per square foot “on the assessment summary of all single wides.” (*Id.*) The data reported reveals an average adjusted price of \$10.10 per square foot for all the single wide homes and an average of \$7.48 per square foot for the homes built before 1976. (*See id.*)

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2. *Double wide homes sales comparison approach*

Sale	Distance	Size	Actual year	Effect. year	Price	Date	Price per sf	Adj. Price	Adj. Price per sf
1	3 miles	1486sf	1989	same	\$25,000	5/17	\$16.82	\$25,000	\$16.82
2	0.88 miles	1227sf	1976	same	\$15,000	5/17	\$12.22	\$15,000	\$12.22
3	26 miles	1647sf	1984	same	\$18,000	3/18	\$10.93	\$18,000	\$10.93
4	26 miles	1215sf	1993	same	\$22,000	3/18	\$18.11	\$22,000	\$18.11
5	26 miles	1152sf	1978	same	\$14,500	10/17	\$12.59	\$14,500	\$12.59
6	26 miles	1424sf	1972	same	\$17,000	6/17	\$11.94	\$17,000	\$11.94

(Def's Ex C.)

Verdin wrote that the first four sales were comparable to the subject properties. (*See* Def's Ex C at 1.) Sale 5, following the death of the homeowner, was low for the area. (*See id.*) Sale 6 was a good comparable to the older subject properties because it was dated with many original features. (*See id.*) All Verdin's comparable sales were class 5 or 5- whereas the subject properties are class 4 to 5. (*See id.*) In reconciliation, Verdin found a price range of \$13.68 to \$14.50 per square foot. (*See id.*) The average adjusted price was \$13.77 per square foot with an average adjusted price of \$14.61 per square foot for homes built after 1976. (*See id.*)

3. *Income approach*

Verdin testified that he performed an income approach analysis only for informational purposes and to provide additional support for the sales comparison approach. (*See* Def's Ex D.) He used Plaintiffs' actual rental rates, an expense ratio of 50 percent, and a capitalization rate of 10 percent for a value of \$18,000 for single wide homes and \$24,000 for double wide homes. (*See id.*)

II. ANALYSIS

The issue before the court is the 2018-19 real market values of the subject properties. Manufactured homes are subject to ad valorem property taxes. *See Gall v. Dept. of Rev.*, 337 Or 427, 98 P3d 390 (2004). "Real market value is the standard used throughout the ad valorem

statutes except for special assessments.” *Richardson v. Clackamas County Assessor*, TC–MD 020869D, WL 21263620 at *2 (Or Tax M Div Mar 26, 2003). “Real market value” is “the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm’s-length transaction occurring as of the assessment date for the tax year.” ORS 308.205(1).⁹ The assessment date for the 2018-19 tax year was January 1, 2018. ORS 308.007; ORS 308.210.

Real market value “shall be determined by methods and procedures in accordance with rules adopted by the Department of Revenue * * *.” ORS 308.205(2). The three approaches to value that must be considered are: (1) the cost approach; (2) the sales comparison approach; and (3) the income approach. OAR 150-308-0240(2)(a)¹⁰; *see also Allen v. Dept. of Rev.*, 17 OTR 248, 252 (2003). Although all three approaches must be considered, all three approaches may not be applicable in each case. *Id.* Here, the parties each presented evidence of comparable sales. Although Defendant presented an income approach, Verdin assigned no weight to that approach so the court will not consider it in its analysis. “As has often been said, [real market value] is a range of value, rather than an absolute. *Price v. Dept. of Rev.*, 7 OTR 18, 25 (1977).

As the party seeking affirmative relief, Plaintiffs bear the burden of proof by a preponderance of the evidence. ORS 305.427. A “[p]reponderance of the evidence means the greater weight of evidence, the more convincing evidence.” *Feves v. Dept. of Revenue*, 4 OTR 302, 312 (1971). Evidence that is inconclusive or unpersuasive fails to meet the burden of proof. *See Reed v. Dept. of Rev.*, 310 Or 260, 265 (1990). “[T]he court has jurisdiction to determine the real market value or correct valuation on the basis of the evidence before the court, without regard to the values pleaded by the parties.” ORS 305.412.

⁹ The court’s references to the Oregon Revised Statutes (ORS) are to 2017.

¹⁰ Oregon Administrative Rule (OAR).

A. *Sales of the Subject Properties*

A “recent, voluntary, arm’s length” sale of the subject property between “a buyer and seller, both of whom are knowledgeable and willing” is important in determining the subject property’s real market value. *Kem v. Dept. of Rev.*, 267 Or 111, 114, 514 P2d 1335 (1973). “In the absence of data indicating that ‘the price paid was out of line with other market data material * * * [a recent sale is] one of the best and most satisfactory standards for the estimation of actual value although, admittedly, it is not conclusive.’ ” *Ernst Bros. Corp. v. Dept. of Rev.*, 320 Or 294, 300, 882 P2d 591 (1994) (citation omitted). “This court has been reluctant to consider ‘foreclosure’ sales” as persuasive evidence of real market value “because such sales ‘may well involve an element of compulsion on the part of the seller.’ ” *Voronaeff v. Crook County Assessor*, TC–MD 110361C, WL 1426847 at *4 (Or Tax M Div Apr 25, 2012) (citations omitted).

Here, Plaintiffs presented evidence of sales of the subject properties. For several reasons the court finds it is unable to rely on those sales as real market value evidence. First, most of the sales are not “recent” with respect to the January 1, 2018, assessment date. All but two of the sales occurred between 2007 and 2016. Second, numerous sales were distressed, including auction sales following foreclosure or repossession following default on a contract, suggesting that such sales were not voluntary. Third, as Defendant noted, Plaintiffs performed work on most of the homes following purchase, thereby increasing their value. On the whole, sales of the subject properties are not persuasive evidence of real market value in this case.

B. *Sales Comparison Approach*

“In utilizing the sales comparison approach[,] only actual market transactions of property comparable to the subject, or adjusted to be comparable, may be used.” OAR 150-308-

0240(2)(c). “The court looks for arm’s length transactions of property similar in size, quality, age and location * * * in order to determine the real market value” of the subject property.

Richardson, 2003 WL 21263620 at *3.

Plaintiffs presented 14 sales from within Vista Village park, indicating a price per square foot of \$0.62 to \$16.57 per square foot; excluding the highest and lowest sale, Plaintiffs’ sales ranged from \$3.35 to \$8.66 per square foot. Plaintiffs did not identify any sales from 2017 or 2018; all the sales occurred between November 2005 and November 2015 or in 2019. Plaintiffs did not make any adjustments to the sales for age, condition, or other features. For those reasons, the court finds Plaintiffs’ comparable sales do not provide reliable value evidence.

Defendant presented two sets of comparable sales: one for single wide homes and one for double wide homes. Upon consideration, the court finds that some of the subject properties are overstated on the 2018-19 tax roll based on the values indicated by Defendant’s sales comparison approaches. Although the court received considerable detail about the subject properties and other manufactured homes, the court was unable to discern how many of those details other than age impacted real market value. Most of Plaintiffs’ single wide home purchases ranged from \$1,000 to \$3,000. The sales below \$1,000 were for the oldest homes built between 1965 and 1971. The sales over \$3,000 were a 1978 and 1995-built home, though a seemingly similar 1978-built home sold for \$1,650. Plaintiffs’ double-wide home sales clustered around \$5,000. The higher and lower-priced sales defy any clear pattern. For instance, Plaintiffs purchased a 1990-built home for \$1,500 and a 1980-built home for \$7,500. Morris testified that 1976 was a relevant year because manufactured homes became subject to HUD standards in that year.

The court finds that the 2018-19 real market value of the single wide homes built before 1976 was \$7.50 per square foot and the value of the double wide homes built before 1976 was

\$12 per square foot. Additionally, the court found that two 1981-built homes were out of line with market evidence: Account 147658 is a 728-square foot single wide home assigned a value of \$12,280, or \$16.87 per square foot. The court finds that a price of \$10 per square foot or \$7,280 is indicated. Account 146103 is a 1,456-square foot double-wide home assigned a value of \$28,870, or \$19.83 per square foot. The court finds that a price of \$14.50 per square foot or \$21,112 is indicated. The court’s real market value findings are summarized below.

Account	Site	Size¹¹	Year built	2018-19 roll RMV	Price per sf	2018-19 new RMV
162490	64	S 924sf	1975	\$10,620	\$7.50	\$6,930
123949	16	S 924sf	1974	\$7,820	\$7.50	\$6,930
119428	22	S 854sf	1971	\$12,610	\$7.50	\$6,405
123970	57	S 470sf	1965	\$11,360	\$7.50	\$3,525
146663	89	S 924sf	1975	\$11,290	\$7.50	\$6,930
144896	57	S 756sf	1967	\$15,730	\$7.50	\$5,670
147658	77	S 728sf	1981	\$12,280	\$10	\$7,280
148071	80	S 924sf	1974	\$10,260	\$7.50	\$6,930
128526	29	S 840sf	1973	\$7,010	\$7.50	\$6,300
149121	65	S 924sf	1975	\$11,120	\$7.50	\$6,930
128633	60	S 840sf	1973	\$15,270	\$7.50	\$6,300
128610	78	S 672sf	1971	\$13,250	\$7.50	\$5,040
151428	58	S 576sf	1974	\$13,120	\$7.50	\$4,320
124029	68	D 1344sf	1975	\$20,010	\$12	\$16,128
164624	75	D 1120sf	1967	\$16,120	\$12	\$13,440
163649	25	D 1200sf	1971	\$22,800	\$12	\$14,400
163650	54	D 1536sf	1975	\$22,230	\$12	\$18,432
128542	47	D 960sf	1973	\$14,670	\$12	\$11,520
146103	62	D 1456sf	1981	\$28,870	\$14.50	\$21,112

With respect to the remaining accounts, the court finds that the 2018-19 tax roll real market values are in line with the values indicated by Defendant’s sales comparison approaches.

III. CONCLUSION

Upon careful consideration, the court finds that the 2018-19 real market value of 19 of the subject properties should be reduced. The 2018-19 real market values of the other 21 subject properties are sustained. Now, therefore,

¹¹ “S” refers to single-wide and “D” refers to double-wide.

IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal is granted in part and denied in part.

Dated this ____ day of February 2020.

ALLISON R. BOOMER
MAGISTRATE

If you want to appeal this Decision, file a complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your complaint must be submitted within 60 days after the date of this Decision or this Decision cannot be changed. TCR-MD 19 B.

This document was signed by Magistrate Allison R. Boomer and entered on February 14, 2020.