

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

FRANCELL GERKMAN,)
)
 Plaintiff,) TC-MD 120497D
)
 v.)
)
 MARION COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

Plaintiff appeals the 2011-12 real market value of property identified as Accounts R16468 and R16469. A telephone trial was set for October 23, 2012. Gabriel A. Gerkman appeared on behalf of Plaintiff. Defendant did not appear.

As the party seeking affirmative relief, Plaintiff bears the burden of proving that the subject property’s real market value is incorrect on the tax roll. ORS 305.427. Plaintiff must establish her claim “by a preponderance of the evidence, or the more convincing or greater weight of evidence.” *Schaefer v. Dept. of Rev.*, TC No 4530, WL 914208 at *2 (July 12, 2001) (citing *Feves v. Dept. of Rev.*, 4 OTR 302 (1971)); ORS 305.427. Plaintiff must present the greater weight of evidence to support her requested real market value reduction. This court has stated that “it is not enough for a taxpayer to criticize a county’s position. Taxpayers must provide competent evidence of the [real market value] of their property.” *Poddar v. Dept. of Rev.*, 18 OTR 324, 332 (2005) (quoting *Woods v. Dept. of Rev.*, 16 OTR 56, 59 (2002) (citation omitted). “Competent evidence includes appraisal reports and sales adjusted for time, location, size, quality, and other distinguishing differences, and testimony from licensed professionals such as appraisers, real estate agents, and licensed brokers.” *Danielson v. Multnomah County Assessor*, TC-MD No 110300D, WL 879285 (March 13, 2012). Evidence

that is inconclusive or unpersuasive is insufficient to sustain the burden of proof. *Reed v. Dept. of Rev. (Reed)*, 310 Or 260, 265, 798 P2d 235 (1990).

Plaintiff submitted no evidence in support of her requested real market values. Plaintiff failed to carry her burden of proof. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this ____ day of October 2012.

JILL A. TANNER
PRESIDING 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 the Decision or this Decision becomes final and cannot be changed.

This Decision of Dismissal was signed by Presiding Magistrate Jill A. Tanner on October 24, 2012. The Court filed and entered this Decision of Dismissal on October 24, 2012.