

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Property Tax

DOUGLAS GREGG AND MARJORIE S.)
HILLPOT,)
) No. 000143D
Plaintiffs,)
)
v.)
)
LINCOLN COUNTY ASSESSOR,)
)
Defendant.) **DECISION AND JUDGMENT**

Plaintiffs are appealing the real market value of their manufactured home for the tax year 1999-2000. A telephone trial was held on Tuesday, July 11, 2000. Mr. Doug Hillpot appeared on behalf of plaintiffs. Mr. Peter Boris, Appraiser, appeared on behalf of defendant.

STATEMENT OF FACTS

Plaintiffs purchased the 1992 Guerdon, Firwood, manufactured home on October 24, 1997, for \$14,000. In addition to the 853 square foot manufactured home, plaintiffs' purchase price included all window coverings, shower curtain and accessories, television antenna, built-ins, appliances (refrigerator, range and dishwasher), decking, and "set-up" materials (support blocks). (Ptf's' Bill of Sale.) Plaintiffs purchased the manufactured home in Polk County and relocated it to their property in Lincoln County. Mr. Hillpot testified that he incurred moving and set-up costs of \$3,500.

Mr. Hillpot testified that the manufactured home was listed for sale with a realtor in early October 1996 for \$33,500. When the property failed to sell, the listing price

was lowered to \$28,000 and then lowered again to \$24,000. (Def's Ex 5.) Having failed to receive any offers for the property, the sellers, Mr. and Mrs. Bemrose, decided to try and sell the manufactured home without a real estate agent. The manufactured home was offered for sale at \$20,000. (Ptf's Ex 3.) According to Mr. Hillpot, this listing price was approximately \$5,000 less than the Bemroses paid for the manufactured home and some site preparations. In October 1997, Mr. Hillpot offered \$14,000 and his offer was accepted.

Mr. Hillpot testified that he entered into an arm's length sale transaction to purchase the manufactured home. He testified that he did not know the Bemroses prior to the transaction. In addition, Mr. Hillpot testified that the property had been listed with a real estate agent, advertised in the local newspaper, and a "For Sale" sign posted in front of the property. Based on the age, size and condition of the manufactured home, Mr. Hillpot believes that he paid market price. He testified that he could purchase a new manufactured home of similar size for approximately \$26,950. Mr. Hillpot asked the court to follow the Oregon Supreme Court holding in *Kem v. Dept. of Rev.*, which held that a recent sale of the subject property is important in determining its market value and, "if the sale is a recent, voluntary, arm's length transaction between buyer and seller, both of whom are knowledgeable and willing, then the sale price, while not conclusive, is very persuasive of the market value." *Kem v. Dept. of Rev.*, 267 Or 111 (1973).

Mr. Boris testified that he does not believe the transaction was arm's length because the Bemroses were very concerned about having a second dwelling on their property which was zoned for a single homesite. According to Mr. Boris, Mrs. Bemrose told him that they did not want to incur an additional expense to move the manufactured home. Mrs. Bemrose told Mr. Boris that they were making mortgage payments on the

manufactured home. Mr. Boris stated that Mrs. Bemrose concluded that they got rid of a headache when they sold the manufactured home to Mr. Hillpot and Mr. Hillpot got a very good buy. (Def's Ex 5.)

Mr. Boris requested that the court consider the sale of comparable properties in its determination of value. (Def's Ex Appraisal Evidence at 1 - 4, 11 - 16.) The indicated value of the three comparable sales which included both land and manufactured home ranged from \$46,282 to \$64,553. Mr. Boris did not segregate the fair market value of the manufactured home from the indicated value. He testified that in Lincoln County the entire property is assessed to ensure that equity is maintained in the area. Land values are deducted from the total value and the residual is allocated to the manufactured home. Mr. Boris stated that location is an important factor in determining the value of the property. He requested that the court consider the Oregon Department of Revenue's Opinion and Order (Opinion and Order) 3-1946-17(C) which held that "the value of the mobile home itself is clearly influenced by its eventual relocation after its initial removal from the dealer's lot." (Def's Ex 7.)

Mr. Hillpot suggested that the sale of the subject property is better evidence of fair market value than an estimate based on the sales of other similar properties. He asked that the court carefully review the Tax Court's holding in *Rhodes v. Dept. of Rev.*, 12 OTR 24 (1991) which supports his premise. Mr. Hillpot concludes that the real market value of his manufactured home was \$15,000 after adjustment for personal property, decking and set-up costs.

COURT'S ANALYSIS

The issue before the court is the 1999-00 real market value of plaintiffs'

manufactured home. Real market value is the standard used throughout the ad valorem statutes except for special assessments. *Gangle v. Dept. of Rev.*, 13 OTR 343, 345 (1995). Real market value is defined in ORS 308.205(1)¹ which reads:

“Real market value of all property, real and personal, means 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.”

The court looks for arm’s length sales transactions of property similar in size, age, and location to plaintiffs’ property in order to determine the real market value.

Plaintiffs allege that their arm’s length purchase of the manufactured home is the best evidence of its real market value. The Oregon Supreme Court has ruled that a recent sale of a subject property is indicative of the property’s value stating:

“(3) A recent sale of the property in question is important in determining its market value. If the sale is a recent, voluntary, arm’s length transaction between a buyer and seller, both of whom are knowledgeable and willing, then the sales price, while certainly not conclusive, is very persuasive of the market value.” *Kem v. Dept. of Rev.*, 267 Or 111, 114, 514 P2d 1335 (1973).

Based on *Kem*, the fact the plaintiffs purchased the property close to the assessment date of January 1, 1998, is “very persuasive” of its real market value that year. Further, the court concludes that plaintiffs purchase of the manufactured home was an arm’s length transaction. The sellers listed their property for sale with a real estate agent and extensively advertised the property. The result of their twelve month selling efforts was one offer. The sellers may have felt some economic pressure to sell as does every homeowner holding a mortgage for a new home while paying on a second mortgage for a property they

¹ All references to the Oregon Revised Statutes are to the 1997 Replacement Part.

no longer live in. There is nothing in the evidence to indicate that the sellers were not “knowledgeable and willing.” Obviously, the sellers had adequate financial resources to build what was described by the parties as their dream home without first selling the manufactured home. The court concludes that the sellers were not under undue duress at the time of the sale and therefore, plaintiffs’ purchase was arm’s length.

Even though the court concludes that plaintiffs’ purchase was arm’s length, the court cannot accept plaintiffs’ purchase price as the real market value as of January 1, 1999. The court agrees that the starting point is plaintiffs’ purchase price. After adjustment for the personal property, time, and set-up costs, the court concludes that the real market value of plaintiffs’ manufactured home as of January 1, 1999, was \$17,500.

Defendant alleges that plaintiffs have failed to consider the effects of location in determining the real market value of their manufactured home. Defendant concludes that the value of the manufactured home which was purchased in Polk County is now greater because it is located in Lincoln County. Defendant labels this difference “location.” Location may refer “to the siting of a property and the effect of siting on accessibility (e.g., corner vs. interior lot) or to the time-distance relationships, or linkages, between a property or neighborhood and all other possible origins and destinations of people going to or coming from the property or neighborhood.” *The Appraisal of Real Estate*, 11th Edition, page 198. Location is one of a number of important factors considered in determining the value of property. Its effect on the value of plaintiffs’ manufactured home was not proven.

Opinion and Order 3-1946-17(C) which was cited by defendant in support of its position that location adds value to a manufactured home concluded that based on the assessor’s evidence of three comparable sales the indicated market value of the manufactured home in a premium mobile home park with a good view of the Rogue River

was greater than its value on the dealer's lot. The court notes that the difference between buying a *new* manufactured home from a dealer's lot and relocating it to a *premium mobile home park*, and buying a *used* manufactured home and relocating it to a *parcel of land* present substantial factual differences which were not addressed by defendant.

In the case before the court, defendant submitted comparable sales data for the value of property (land and improvement which was a manufactured home), leaving the court with no way to attribute the effect of location, if any, on the value of plaintiffs' manufactured home.

CONCLUSION

IT IS HEREBY ADJUDGED AND DECREED that the real market value of plaintiffs' property described as Lincoln County Assessor's Account No. M509969 as of January 1, 1999, was \$17,500.

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IT IS FURTHER ADJUDGED AND DECREED that the county correct the assessment and tax rolls to reflect the above values. Any refund due following this correction is to be promptly paid with statutory interest pursuant to ORS 311.806 and 311.812.

Dated this _____ day of July, 2000.

JILL A. TANNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON JULY 26, 2000. THE COURT FILED THIS DOCUMENT ON JULY 26, 2000.