

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

FLORENCE E. LASSWELL,)	
)	
Plaintiff,)	No. 000212B
)	
v.)	
)	
LINCOLN COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

A trial was convened on July 14, 2000, in Newport, Oregon. Richard R. Kilbride, Attorney, represented plaintiff. Rob Bovet, Legal Counsel, represented the defendant. Peter Boris, County Appraiser, provided expert testimony.

After the trial, the parties together reinspected the subject property and took measurements. Subsequently, they each submitted written arguments; the record closed on August 29, 2000.

At issue is the real market value of plaintiff's residence for the 1999-00 tax year. The record assessment, set by the Lincoln County Board of Property Tax Appeals, totals \$628,390. Defendant admits an overvaluation and recommends a reduction to \$601,620. Plaintiff seeks a further reduction to \$500,000.

STATEMENT OF FACTS

The subject property is a single family residence with an excellent view of the Pacific Ocean. The land totals about three acres. According to plaintiff, the improvements measure nearly 3,412 square feet of livable space.

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The land was acquired in September of 1997. At that time, they comprised tax lots 800 and 801. The price paid was \$300,000. Plaintiff testified in a credible fashion about the special motivations that led to that land purchase. During the summer of 1997, plaintiff's spouse was diagnosed with (potentially terminal) cancer. In a short period of time, only a matter of weeks, the land was located and purchased. Ms. Lasswell testified it was an "impulse buy." It was made immediately prior to her spouse's cancer surgery. The specific intent was to provide a viable project after the medical procedure, whereby he would be able to plan and design the house during his recovery period.

Plaintiff's realtor witness testified he thought the land purchase was at a "top price" and that the value has declined significantly since. Plaintiff raises an issue about what constitutes the usable portion of the land and what is merely "excess" land. She believed, when making the purchase offer, that there were three acres of land with utility for building purposes. Later, she concluded the usable portion was but .87 acre.

Plaintiff offered evidence of land sales, including several in the Nelson Estates subdivision. Those Nelson lots ranged in price from \$150,000 to \$195,000.

Plaintiff's evidence included the sales of six comparable improved properties. They ranged in price from \$460,000 to \$700,000. Similarities and differences were discussed.

Defendant claims the \$300,000 acquisition cost for the land conclusively sets its market value at that point in time. He testified it was listed several months before the sale. He offered no probative market evidence to meet the owners' testimony as to subjective motivations.

The improvements were, in fact, planned and designed by plaintiff's spouse during his medical recovery period. Construction started in 1998 and was complete by 1999. The (revised) invested costs were \$287,224. However, in her initial cost ledger, plaintiff includes the onsite development costs (\$15,244) in the improvement column. Instead, for assessment purposes, it should be allocated to the land account.

Defendant has classified the house as a "class 6" structure. Plaintiff contends for a lower category. She mentioned certain errors in the defendant's records including lack of hardwood flooring, paneling and oak finishing. She stated the fixtures were "modestly priced" and there was "no fanciness."

Defendant claims the improvements' value is \$357,550. This is substantially above the actual costs incurred. While some cost reporting services were mentioned, no hard evidence was offered on this point.

COURT'S ANALYSIS

Plaintiff's purchase of the land in 1997 was motivated by special considerations. In such cases, the price paid may be atypical of the market in general. With repeated emphasis, Ms. Lasswell disavowed her price paid as being an informed market level sale. The sales offered by plaintiff substantiate that a reduction is in order. The land account must include the onsite development costs. The evidence supports a real market value of \$230,000.

The actual, documented costs to construct the improvements, near the assessment date, are persuasive evidence of current values. From plaintiff's totals offered at trial, there must be reallocated the onsite development costs to the land portion of the account. This is especially true when there is no strong competing evidence offered by

defendant. The court finds the real market value of the improvements to be \$310,000.

CONCLUSION

IT IS THE DECISION OF THE COURT that the 1999-00 real market value of the subject property was \$540,000 with \$230,000 allocated to land and \$310,000 to improvements. Dated this ____ day of October, 2000.

JEFF MATTSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, 1241 STATE STREET, FOURTH FLOOR, SALEM, OR 97310. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON OCTOBER 24, 2000. THE COURT FILED THIS DOCUMENT ON OCTOBER 24, 2000.