

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

DAVID R. and KATHLEEN R. FRANZEN,)	
)	
Plaintiffs,)	No. 000230C
)	
v.)	
)	
LANE COUNTY ASSESSOR,)	
)	
Defendant.)	AMENDED DECISION

Plaintiffs appealed the real market value of certain real property identified in the Lane County Assessor's records as Account No. 1449857 for the 1999-00 tax year. A trial in the matter was convened June 16, 2000. Mr. David Franzen appeared for the plaintiffs. Defendant did not appear, as is its custom in the majority of the appeals involving residential property in Lane County. The stated reason is budgetary constraints.

STATEMENT OF FACTS

The subject property is plaintiffs' personal residence and is located in Florence, Oregon. The assessor's office set the value of the land at \$85,500 and the improvement at \$121,350. On appeal to the county board of property tax appeals (board), the value of the improvement (real market value) was reduced to \$111,350. The land value was sustained. Plaintiffs seek a reduction in the land value to \$60,000 based on the sale of two nearby lots in 1999. Lot 1400 sold on July 15 for \$59,000 and lot 800 sold on November 22 for \$55,000. Both lots are similar in size to the subject. They were sold as vacant lots (no well or septic, etc.). Plaintiffs purchased their lot (lot 1000) for \$61,500 in May of 1992. Mr. Franzen testified that a friend of his in Florence recently sold his home

for \$75,000 less than he paid for it after owning it several years. Plaintiffs argue that the market in Florence has declined in the past few years.

COURT'S ANALYSIS

The issue is real market value, defined by statute (for assessment and tax purposes) as “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).¹ The assessment date for tax year 1999-00 was January 1, 1999. ORS 308.007(2)(a). This is the date on which value is to be determined.

Plaintiffs present two sales. Both occurred after the assessment date. However, post-assessment date sales can be used to demonstrate market value unless there is reason to believe that “the condition of the property at the time of assessment was any different than it was at the time of the subsequent sale.” *Sabin v. Dept. of Rev.*, 270 Or 422, 428, 528 P2d 69 (1974) (FN 11); *see also Truitt Bros., Inc. v. Dept. of Rev.*, 10 OTR 111 (1985).

The only testimony in this case is that the market was declining. While the evidence is minimal and proffered by someone not trained in the field of property valuation, the court is nonetheless persuaded that the market was in fact flat or falling in the Florence area. Plaintiffs paid more in 1992 than recent purchasers have paid for nearly identical lots. The sales suggest that plaintiffs' lot, in an unimproved state, would have a market value, as of January 1, 1999, of perhaps \$60,000. However, plaintiffs' lot is improved and some value was added in the process of preparing the lot for a home.

¹ Reference to the Oregon Revised Statutes (ORS) is to the 1997 laws unless otherwise indicated.

Mr. Franzen argues that there are only two categories on the tax statement, land and improvements, and that, since only land is at issue, the fact that he has sited a home on the property is irrelevant. The court does not agree. It is common knowledge that a lot with no improvements whatsoever is worth less than a similar lot that has been prepared for development.

Since the appeal involves the value of land, it is helpful to look at the definition of land. Land is defined by statute as follows:

" 'Land' means land in its natural state. For purposes of assessment * * * land includes any site development made to the land. 'Site development' includes fill, grading, leveling, underground utilities, underground utility connections and any other elements identified by rule of the Department of Revenue." ORS 307.010(3).

The Department of Revenue has promulgated a rule that expands on what constitutes site developments. The rule states:

"(A) Site developments are improvements to the land that become so intertwined with the land as to become inseparable. Examples are: fill, grading and leveling, utility facilities (sewer, water, etc.), cost of developer's activities and profit that accrues to the land, including but not limited to: permits, advertising, sales commissions, developer's profit and overhead, insurance coverage, and any other improvements to the land necessary to improve it to become a site. * * * Site developments consist of both 'offsite developments' and 'onsite developments.'

"(i) Offsite developments are land improvements provided to the site. These include but are not limited to items such as streets, curbs, sidewalks, street lighting, storm drains, and utility services such as electricity, water, gas, sewer and telephone lines.

"(ii) Onsite developments (OSD) are land improvements within the site which support the buildings or other property uses. These include but are not limited to items such as grading, fill, drainage, wells, water supply systems, septic systems, utility connections, extension of utilities to any structure(s), retaining

walls, landscaping, graveled driveway area." OAR
150-307.010(2)(a)(A) (emphasis added).

These definitions aptly demonstrate the various attributes of land that must be taken into account in valuing a property for tax purposes. In light of the foregoing, the conclusion is inescapable that plaintiffs' land was worth more than the comparable sales introduced into evidence because of the value added by the on-sites. There is no direct or indirect evidence of the associated costs in this case or the market's response. Nonetheless, the court must add some value for these improvements. The typical range is \$4,000 to \$10,000. The court finds \$7,500 to be an appropriate figure, bringing the total value of plaintiffs' land to \$67,500 for the 1999-00 tax year.

CONCLUSION

The evidence shows that defendant valued plaintiffs' land in excess of the market. Comparable sales demonstrate that the land had a real market value, as of January 1, 1999, of \$67,500. The value of the improvements was not at issue.

///

///

///

///

///

///

IT IS THE DECISION OF THE COURT that the real market value of plaintiffs' land, including all on-site developments, as of January 1, 1999, was \$67,500. The improvements remain undisturbed at \$111,350, for a total real market value of the property

identified in the Lane County Assessor's records as Account No. 1449857, of \$178,850.

Since the assessed value in this case is the real market value, and not the maximum assessed value, the assessed value shall be reduced to \$178,850.

Dated this _____ day of October, 2000.

DAN ROBINSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., 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 DAN ROBINSON ON OCTOBER 25, 2000. THE COURT FILED THIS DOCUMENT ON OCTOBER 25, 2000.

* Amended as to the final value determination to correct a mathematical error in tallying the land and improvement values.