IN THE MAGISTRATE DIVISION

OF THE OREGON TAX COURT

Small Claims

Property Tax

MARIE B. NIXON,)
Plaintiff,)) No. 000235D
V.)
LANE COUNTY ASSESSOR,)
Defendant.))) DECISION AND JUDGMENT

Plaintiff appeals the real market value of her property for tax year 1999-00. A case management conference was held on June 7, 2000. Ms. Nixon represented herself. Defendant did not appear. During the conference, the court requested that Ms. Nixon submitted evidence to support her appeal. On June 19, 2000, Ms. Nixon wrote to the court and stated that the total square footage of her home was 1,444 feet. No additional information was submitted.

On June 20, 2000, the court wrote to Ms. Nixon. A copy of the court's handbook in addition to references to important pages in the handbook were incorporated in the letter. The court advised Ms. Nixon that she must submit evidence to support her appeal by August 2, 2000, or her appeal would be dismissed.

On June 30, 2000, the court received a letter from Mr. Michael Cocciolo, Owner and Broker, Prudential Pacific Properties. Mr. Cocciolo wrote that in his opinion "the true cash value of the property" (plaintiff's property) "has not increased significantly since the last property tax year." Mr. Cocciolo did not submit any evidence to support his opinion. According to the property tax statement submitted by Ms. Nixon, the real market value of her property in 1998-99 was \$74,840 which is more than the 1999-00 assessed value of \$70,857. Even if the court agreed with Mr. Cocciolo that the real market value of plaintiff's property was \$74,840 for tax year 1999-00, there is no indication that the assessed value of plaintiff's property would be reduced to less than the current roll value of \$70,857. However, the court does not agree with Mr. Cocciolo because by failing to include any evidentiary support for his opinion the court is not persuaded that "the facts asserted are more probably true than false." *Cook v. Michael*, 214 Or 513, 527, 330 P2d 1026 (1958).

Ms. Nixon submitted no other evidence to support her appeal. The burden is on plaintiff to prove, by a preponderance of the evidence, that she is entitled to the relief requested. ORS 305.427. "Preponderance of the evidence means the greater weight of evidence, the more convincing evidence." *Feves v. Dept. of Rev.*, 4 OTR 302, 312 (1971). Plaintiff's minimal evidence (the total square feet of her property and a broker's opinion that the value of the property has not appreciate significantly from the prior year) does not answer the question of the real market value of plaintiff's property as 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 plaintiff's property in order to determine the real market value. The court advised plaintiff in its letter dated June 20, 2000, that plaintiff should submit evidence

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

including an appraisal or comparable sales data to the court. Plaintiff has not provided the

court with sufficient evidence to support her allegations. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that plaintiff's appeal is

denied.

Dated this _____ day of August, 2000.

JILL A. TANNER MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON AUGUST 10, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 10, 2000.