

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

MICHAEL LEWIS,)
)
 Plaintiff,) No. 000274E
)
 v.)
)
 LANE COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff appeals the 1999-2000 real market value of his home, identified in the Lane County Assessor's records as Account No. 1424876. Trial in the matter was held May 15, 2000. David E. Carmichael, Attorney, represented plaintiff (taxpayer). Taxpayer appeared and testified on his own behalf. Defendant Lane County Assessor waived participation in the proceeding. (Def's Answer).

STATEMENT OF FACTS

The subject property is a 4,087-square-foot home that sits on a sloping .57-acre parcel. The assessor's records list the home as having 3,583 square feet that are finished. The home is a class five structure built in 1964. Taxpayer testified that his home is an overimprovement in the neighborhood. Homes one block away on Emerald Street have living areas as small as 812 square feet, (Ex 1 at 6), and structures in the area are generally of class three quality.

For the 1999-2000 tax year, the county assigned the subject property a real market value of \$354,350. Taxpayer appealed the value to the county board, which ordered the value reduced to \$296,000. Taxpayer appeals claiming the court should reduce the value to \$240,000.

To support his opinion of value, taxpayer submitted a sales grid comparing the sales of three properties in his neighborhood to the subject property. All three sales are substantially smaller than the subject property and, as a consequence, large adjustments to the sales were made. Sale one sold in September 1998 for \$164,000 and was adjusted up \$59,500 for size. Sale two sold in July 1997 for \$149,000 and was adjusted up \$61,500. Sale three occurred in September 1997 for \$174,900 and was adjusted up \$57,800. The square footage of the sales were 2,392; 2,812; and 2,427 respectively. Taxpayer's size adjustments were based on \$50 per square foot.

All three of taxpayer's comparable sales are class three structures. As a result, taxpayer adjusted them up ten percent of their respective improvement value. The various adjustments resulted in an indicated value for the subject property of \$222,506 to \$248,142. Based on this evidence, taxpayer believes the value of his property as of January 1, 1999, was no more than \$240,000.

COURT'S ANALYSIS

Initially, the court had serious concerns about the sales used by taxpayer in his analysis. Comparing class three structures to a class five structure does not provide for a solid analysis. Further the comparables are significantly smaller than the subject property and the adjustments are quite large, which lessens their reliability. At trial, the court questioned both taxpayer and his attorney at length regarding the evidence.

Taxpayer testified that his home is such an overimprovement that comparable sales are difficult to find. His testimony regarding the nature of his neighborhood and the quality of surrounding homes persuades the court the subject property is atypical for its area.

Regarding the adjustments, the court questioned why only a ten percent adjustment was allowed for quality when there were two class differences (three versus five) between the

properties. Mr. Carmichael explained that, due to the overimprovement of the property, it is his opinion functional obsolescence is present. He accounted for the obsolescence by treating the home as a class four structure. His adjustments for size and quality reflect adjustments appropriate for a class four structure.

Although the court generally expects sales that are more comparable and adjustments that are smaller, taxpayer's testimony persuades the court such sales were not available. Taxpayer asks for a value reduction to \$240,000, which is in the middle of the indicated value range of his comparables. After reviewing the evidence, the court is more comfortable ordering the value reduced to the upper range of value indicated by the comparable sales. As a result, the court finds the 1999-2000 value of the property was \$250,000.

CONCLUSION

The un rebutted evidence and testimony of taxpayer were enough to persuade the court that the 1999-2000 real market value of the subject property was no more than \$250,000. Now, therefore;

IT IS THE DECISION OF THIS COURT that the 1999-2000 real market value of the property identified as Account No. 1424876 was \$250,000.

Dated this _____ day of May, 2000.

COYREEN R. WEIDNER
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 COYREEN R. WEIDNER ON
DECISION**

MAY 24, 2000. THE COURT FILED THIS DOCUMENT ON MAY 24, 2000.