

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

DENNIS J. AND LOLA M. BENTON,)	
)	
Plaintiffs,)	No. 000288B
)	
v.)	
)	
HARNEY COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

A trial was held on August 10, 2000. Both plaintiffs appeared and offered testimony. Glenn Whitmore, County Appraiser, participated for the defendant.

At issue is the real market value ascribed to plaintiffs' residence and .64 acre of rural land for the 1999-00 tax year. The current value was set by the Harney County Board of Property Tax Appeals (BOPTA). The values urged by the parties are as follows:

<u>Party</u>	<u>Real Market Value</u>
Defendant at trial	\$219,729
Current Value (BOPTA)	\$209,729
Plaintiffs at trial	\$184,977

STATEMENT OF FACTS

The subject property is located in Highland Ranch Estates. While these plaintiffs own three adjoining tax lots, only the land value of tax lot 1000 is at issue herein. Construction on the home was started in 1997; the owners first occupied the structure in June of 1998. The basement area is still not completely finished.

Plaintiffs offered an appraisal estimate that was obtained for construction loan purposes. It included all three land lots and concluded a total prospective value of \$185,000. However it was signed in April of 1997, some 14 months before occupancy began. The document's appraisal assumptions includes the following caveat:

"The subject property is proposed construction. All details for the structure were taken from plans and specifications and from interviews with the owner and builder when necessary. It is assumed that the home will be built of new materials with good quality workmanship. The final value estimate is subject to completion per the specifications as outlined in the body of the report. Any material changes can have an effect on the final value estimate." (Ptf's' Ex at 18)

Plaintiffs mention ORS 308.153 and 308.234 and the interplay between new construction and a new appraisal.

Plaintiffs raise the issue of uniformity of assessment. They compare their tax burden to that of certain neighbors. They looked to five other properties where the total assessments were lower. Those other properties ranged from \$110,638 to \$187,161 in the defendant's records.

Defendant detailed the new construction process and the reported costs for the year under appeal and in prior times. He spoke of the need to index forward the earlier costs, some of which were several years old.

Defendant's appraiser employed a market data approach. He examined ten sales. They provided a wide range with unadjusted values from \$36 to \$69 per square foot. After reasonable adjustments for time, the square foot values ranged from \$43 to \$87.

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COURT'S ANALYSIS

Plaintiffs' reliance on historical costs are just that. The costs were incurred, but are not too current and do not necessarily reflect the *market value* of the subject property. And that measurement from the market itself is what's contemplated by the statutes. ORS 308.205.

The prospective appraisal for plaintiffs' financing purposes is not persuasive. The improvements were not even in existence at that time. It is speculative and not necessarily reflective of the current market.

The evidence and arguments as to uniformity are not persuasive. In the current assessment scheme, similar properties may have disparate value. There is no evidence that defendant's actions have violated ORS 308.153 or 308.234.

For these above reasons, the court will not *reduce* the value below the current \$209,729 for 1999-00.

The best approach offered is defendant's market data study. Even using the low end of the range, the values are \$36 per square foot. With time passages added, the range starts at \$43. Plaintiffs request \$33 per square foot. However, there remains the issue of the unfinished basement and a few other minor items. Defendant's requested increase in the record assessment includes amounts corresponding to a higher degree of finish than was present on the assessment date. The amount requested by defendant is within 5% of the current BOPTA value.

Because of these several factors, the court will not order an *increase* above the current level for 1999-00.

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CONCLUSION

IT IS THE DECISION OF THE COURT that the respective requested values of the parties are denied. The 1999-00 roll value shall remain undisturbed

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 30, 2000. THE COURT FILED THIS DOCUMENT ON OCTOBER 30, 2000.