

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

CHART DEVELOPMENT CORPORATION,)
)
Plaintiff,) No. 000444C
)
v.)
)
WASHINGTON COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

Plaintiff has appealed the real market value of ten of eleven lots in a subdivision in Beaverton, Oregon, for tax year 1999-00. A trial was held September 11, 2000. Plaintiff appeared through Mr. Chuck Olson. Defendant appeared through Messrs. Tony Rosatti and John Alve, appraisers with the county assessor's office.

STATEMENT OF FACTS

The ten lots at issue are nearly identical in size (all are either .19 or .20 acres) and are located on either side of SW 75th Terrace, in a subdivision recorded in October 1998. The lots are just north of SW Canyon Road, a busy thoroughfare in Beaverton, with lots 7 through 11 nearest to that road.

The lots were all originally valued by the assessor at \$124,000 (RMV) and assessed at \$94,240. (Ptf's Complaint, at 4 through 13). On appeal to the County Board of Property Tax Appeals, the values were lowered to between \$98,500 and \$115,000. In its Complaint to this court, plaintiff requested reductions to \$100,000 for lots 1, 3, 4, 5 and 6, and \$80,000 for lots 7 through 11. Lot 2 is not under appeal. Plaintiff's value request was revised by Mr. Olson at trial based on actual sales of all but two of the subject lots, with

market adjustments proposed to adjust the sale prices to their indicated values as of the applicable assessment date of January 1, 1999. Most of the lots were purchased by two different builders.

The relevant assessment information and value data is:

Account No.	Current RMV	Ass'or Appraised Value (as of 1/1/99)	Sale Price/Date
R2081715 (lot 1)	\$115,000	\$110,000	\$112,000/Aug. 2000
R2081717 (lot 3)	\$115,000	\$109,300	\$100,000/Feb. 2000
R2081718 (lot 4)	\$115,000	\$111,000	\$100,000/Mar. 2000
R2081719 (lot 5)	\$115,000	\$111,000	\$105,000/Mar. 2000
R2081720 (lot 6)	\$110,000	\$114,500	\$ 97,500/May 2000
R2081721 (lot 7)	\$104,000	\$103,000	\$100,000/May 2000
R2081722 (lot 8)	\$104,000	\$101,600	\$ 98,500/Sep. 2000
R2081723 (lot 9)	\$104,000	\$103,100	\$ 98,500/Sep. 2000
R2081724 (lot 10)	\$104,000	\$103,900	For Sale
R2081725 (lot 11)	\$ 98,500	\$104,800	For Sale

The properties were originally listed for as much as \$160,000 per lot. (Def's Appraisal, at 3). Lot 2, which is not under appeal, sold on January 25, 1999, for \$115,000. This is one of the sales used by the assessor's office as a comparable sale. There were no other sales in this subdivision in calendar year 1999.

Before the project was complete, plaintiff was advised by a realtor to market the properties for \$90,000 each. Plaintiff felt that number understated the value and listed the lots for more money. Also, plaintiff received an offer before completing the subdivision, which it declined, for \$100,000 each for all eleven lots. Plaintiff was influenced by list

prices of other nearby lots.

Mr. Alve appraised the property for the county. He analyzed five sales in Beaverton, all within four miles of the subject properties, and, after adjusting for time, location, view, topography and “busy street”, estimated a range of value, on a per square foot basis, of between \$13.07 and \$13.81. The final indicated values, set out above, range from a high of \$114,500 (lot 5) to a low of \$101,600 (lot 8). At trial, defendant was willing to reduce the values further to the eventual sale prices, with the two unsold lots being valued at \$98,500.

COURT'S ANALYSIS

Plaintiff contends that the board’s valuation of the ten lots at issue is too high and that the values should be set based on the sale prices, with time adjustments to January 1, 1999, the assessment date for tax year 1999-00. ORS 308.007(1)(a); ORS 308.210(1). The only probative evidence plaintiff submitted was the sale prices. Plaintiff’s representative and sole witness urges the court to accept the county’s time adjustment of nine percent per year (.75 per month) and apply it to these sales.

Although defendant appraised the lots using comparable sales from the area, including a lot within the subject subdivision that sold weeks after the assessment date, Mr. Rosatti expressed a willingness to accept the actual sale prices, unadjusted, as indicative of value as of January 1, 1999. And, he recommended using the most recent sale of lot 9 at \$98,500 for the two unsold lots next to it (10 & 11).

Plaintiff has the burden to show that their asserted values best reflect the market as of the assessment date or at least that the current roll values are incorrect. ORS 305.427; *Ward v. Dept. of Rev.*, 293 Or 506, 509 (1982). The requisite burden is a preponderance of the evidence, which has been defined as “the greater weight of

evidence, the more convincing evidence.” *Feves v. Dept. Of Revenue*, 4 OTR 302, 312 (1971).

Real market value is defined 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. Thus, the goal is to ascertain what the market perceived on January 1, 1999. Here we have actual sales, though they are post-assessment date transactions.

A sale occurring after the assessment date may be used to establish value for assessment purposes provided there is no “evidence showing a change in the underlying conditions affecting the value of a property between the assessment date and the sale date.” *Ernst Bros. Corp. v. Dept. of Rev.*, 320 Or 294, 305, 882 P2d 591 (1994), citing *Sabin v. Dept. of Rev.*, 270 Or 422, 427, 528 P2d 69 (1974). The court concludes that the sale prices are not so far removed from the assessment date as to exclude them, particularly in light of the opinions of the parties to that effect.

As for plaintiff’s insistence on adjusting the sales for time, the court is not persuaded that a preponderance of the evidence supports that position. Overall, the evidence in this case paints an unclear picture of the market and confirms Mr. Olson’s testimony that he was overly influenced by other projects in marketing these lots. For example, residential property values in Washington County generally rose an average of nine percent during the period in question. However, the evidence as to this particular subdivision suggests a stable market and is somewhat perplexing. Plaintiff was advised by a realtor to sell the lots for \$90,000 each in mid-1998. Around the same time plaintiff declined an offer to sell all eleven lots to a single buyer for \$100,000 each. Ultimately the lots sold at prices just above and below \$100,000 over the course of nearly two years. Mr.

Olson now urges the court to adjust the sales to values well below \$100,000. To do so would be to disregard the offer made months before the assessment date.

After the first lot (# 2) sold in early 1999 for \$115,000, it took 13 months to sell the second lot (# 3), which is nearly identical to the first, and it only sold for \$100,000. This was 18 months after the 1998 offer for \$100,000. The next two sales (lots 4 & 5) were in March 2000 and involved prices of \$100,000 and \$105,000. This suggests a stable market in this subdivision, perhaps resulting from increased competition. If the court were to apply the county's nine percent annual trend to these sales (lots 4 & 5), the indicated values would be roughly \$90,000 and \$94,000. The most recent sales in September 2000 (lots 8 & 9) would adjust to \$83,725. These numbers are well below the \$100,000 offer rejected in 1998 and simply are not supported by the evidence. For this reason, the court declines plaintiff's invitation to time adjust the actual sales.

Defendant's witnesses raised many questions about the sale prices, but for the reasons set out above, those concerns need not be addressed. Mr. Olson believes that Article XI, section 11(1)(c) of the constitution requires values to be set based on average area sale prices of properties in the same class as his lots, and for that reason submitted a computer print-out of area sales, which he then used for averaging. However, the referenced provision addresses the determination of maximum assessed value and requires a ratio to be applied to the market value of property newly "created" by a subdivision after July 1, 1995, so that it (the new property) is assessed under Measure 50 somewhat uniformly with property that was on the rolls on July 1, 1995.¹ This is

¹ Measure 50 was a referendum measure approved by the voters in May 1997 which rolled back tax year 1997-98 values to 90 percent of their 1995-96 roll values (RMV). Or Const, Art XI, § 11(1)(a). It provides:

"(1)(a) For the tax year beginning July 1, 1997, each unit of property in

accomplished by establishing market value and then adjusting that number by the ratio of “average maximum assessed value to average real market value.” Or Const, Art XI, § 11(1)(c); *see also* ORS 308.156.

CONCLUSION

The evidence shows an error in the record assessments and the court concludes that the sale prices of the subject properties best reflect market value. The trend applied by defendant to sales largely outside the subdivision and urged by plaintiff for these sales is not supported by the evidence. The record, as a whole, supports the following values:

<u>Account No.</u>	<u>Current RMV</u>	<u>Adjudicated Value</u>
R2081715 (lot 1)	\$115,000	\$112,000
R2081717 (lot 3)	\$115,000	\$100,000
R2081718 (lot 4)	\$115,000	\$100,000
R2081719 (lot 5)	\$115,000	\$105,000
R2081720 (lot 6)	\$110,000	\$ 97,500
R2081721 (lot 7)	\$104,000	\$100,000
R2081722 (lot 8)	\$104,000	\$ 98,500
R2081723 (lot 9)	\$104,000	\$ 98,500
R2081724 (lot 10)	\$104,000	\$ 98,500
R2081725 (lot 11)	\$ 98,500	\$ 98,500

IT IS THE DECISION OF THE COURT that the real market values on the

this state shall have a maximum assessed value for ad valorem property tax purposes that does not exceed the property's real market value for the tax year beginning July 1, 1995, reduced by 10 percent.”

assessment and tax rolls for tax year 1999-00 shall be adjusted to reflect the values set out above and that the assessor's office adjust the assessed values accordingly.

Dated this _____ day of September, 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 SEPTEMBER 20, 2000. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 20, 2000.