

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Small Claims

Property Tax

VIVIAN FOGUS,

)

)

Plaintiff,

)

No. 000468F

)

v.

)

)

LANE COUNTY ASSESSOR,

)

)

Defendant.

)

**DECISION AND JUDGMENT**

Plaintiff appealed the real market value of her manufactured home for the 1999-00 tax year. The property is listed as Account Number 4243323 by the Lane County Assessor. A telephone trial was held June 19, 2000. David Carmichael represented the plaintiff. Lynn Fogus, plaintiff’s daughter-in-law, appeared as a witness for the plaintiff. Defendant waived participation in the trial.

**STATEMENT OF FACTS**

Plaintiff’s manufactured home is located on her son and daughter-in-law’s property. The property also includes their home. The property is an 11 acre tract located near Fern Ridge Reservoir. The manufactured home was placed on the property in accordance with Lane County Code (LCC) 16.231(2). LCC 16.231(2) provides that:

“The following uses and activities are permitted subject to the general provisions and exceptions specified by this Chapter of Lane Code:

“\* \* \* \* \*

“(b) A single-family dwelling or mobile home on a legal lot, in addition to the above, to provide residence for an

immediate family member or members of the owner, provided that the minimum average density per residential unit \* \* \* is maintained, and proper sanitation approvals are obtained.”

The zoning is rural residential with a five acre minimum. Since the land is an 11 acre tract, the manufactured home could be placed on the property for the residence of an immediate family member. If the plaintiff is no longer able to live in the manufactured home, the home could only be used by an immediate family member. The likely result is that it would have to be moved. Ms. Fogus testified that it would cost approximately \$10,000 to move the home. After consultation with a manufactured home broker, she estimates the home would sell for \$30,000.

### **COURT'S ANALYSIS**

The sole valuation evidence was produced on plaintiff's behalf. The competent market evidence, supported by direct testimony, is entitled to substantial weight.

As defendant declined to participate at trial, and there being no probative evidence to refute plaintiff's assertions, the record assessment is without any real support. Plaintiff has proven, and is entitled to, the relief requested.

The appeal is granted.

### **CONCLUSION**

IT IS HEREBY ADJUDGED AND DECREED that the real market value of the property described as Lane County Account Number 4243323 shall be \$30,000 for tax year 1999-00.

IT IS FURTHER ADJUDGED AND DECREED that the county shall correct

the maximum assessed value of the property accordingly.

IT IS FURTHER ADJUDGED AND DECREED that the county shall correct the assessment and tax rolls to reflect the above values. Any refund due following this correction is to be promptly paid with statutory interest pursuant to ORS 311.806 and 311.812.

Dated this \_\_\_\_\_ day of June, 2000.

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SALLY L. KIMSEY  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON JUNE 27, 2000. THE COURT FILED THIS DOCUMENT ON JUNE 27, 2000.**