

IN THE MAGISTRATE DIVISION

OF THE OREGON TAX COURT

Small Claims

Property Tax

MICHAEL NAVETTA,

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Plaintiff,

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No. 000777D

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v.

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LANE COUNTY ASSESSOR,

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Defendant.

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DECISION AND JUDGMENT

Plaintiff appeals the real market value of his property for tax year 1997-98 and 1998-99. A telephone trial was held on Thursday, July 27, 2000. Mr. David Carmichael, Attorney, appeared on behalf of plaintiff. Mr. Michael Navetta testified on his own behalf. Defendant did not appear nor submit any evidence.

The telephone trial of the above-entitled matter was held on the same date and time as *Michael Navetta v. Lane County Assessor*, Case No. 000401D.

STATEMENT OF FACTS

Plaintiff's 904 square foot home which is located in Florence south of Highway 101 was built in 1965. Mr. Navetta testified that his property identified by the Lane County Assessor as Account No. 870061 has 2 bedrooms and 1 bath. The structure has a composition roof, electric baseboard heating and T111 plywood exterior siding.

Mr. Navetta testified that he purchased his property in an arm's length transaction in 1992 for \$55,000. He stated that his purchase was made at the peak of the Florence real estate market. Since 1992, the real estate market in Florence has

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declined. Mr. Navetta testified that it recently took his neighbor 2 years to sell her property.

Mr. Navetta testified that the condition of his property has declined because he has not done any maintenance. He related that the roof on the carport “blew off” a few years ago during a winter wind storm and the supporting structure has so weakened that he cannot get on the roof to repair it. Mr. Navetta testified that there are several areas of dryrot throughout the house and his shower stall has “disintegrated to the point where the house framing is visible.” (Ptf’s Ex 1.) In addition, Mr. Navetta testified that the exterior of the house needs paint. Because he is unable to afford to make these repairs, he has no idea how much it would cost to cure these problems.

Mr. Navetta testified that his single biggest problem is the lack of potable water. He was unaware that the water was not potable when he purchased the property. Soon after he acquired the property, Mr. Navetta was informed by the Department of Environmental Quality that the water was not potable. In addition to not being able to drink the water, Mr. Navetta testified that frequently the water to his property is shut off by the water company because of a shortage of water. He testified that he buys bottled water for drinking. Mr. Navetta does not have a well on his property.

Plaintiff’s appeal is timely because the requested relief states a gross error of more than 20 percent. ORS 305.288. Defendant determined that the value of plaintiffs’ property was \$72,470 and \$74,070, for tax years 1997-98 and 1998-99, respectively. Based on the comparable sales data, plaintiff concludes that his property had a real market value of no more than \$50,000. Mr. Navetta testified that the Board of Property Tax Appeals reduced his 1999-00 real market value to \$62,420 which supports his position that the value of his property has been substantially overstated for the last three years.

Mr. Navetta through his attorney submitted the sale of two comparable properties in support of the value of his property. Both properties were built in 1946 and had more square feet of living space than plaintiff’s property. One property was located on

a comparable lot size (2/3 of an acre) and the other was on a little over a full acre. Each property sold for between \$55,000 and \$58,000 in the 1995-96 tax year. Mr. Navetta stated that based on these comparable sales and the condition of his property the real market value of his property cannot be more than \$50,000.

COURT'S ANALYSIS

The issue before the court is the 1997-98 and 1998-99 real market value of plaintiff's property. Real market value is the standard used throughout the ad valorem statutes except for special assessments. *Gangle v. Dept. of Rev.*, 13 OTR 343, 345 (1995). Real market value is 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. In this case, the court was provided with unadjusted sales of properties sold several years prior to the date of assessment, the improvements were built years earlier, the living space of each structure was greater than plaintiff's, and the lot size of one property was substantially larger. These sales cannot be labeled comparables. However, the sales do indicate that it is highly unlikely the real market value of plaintiff's property would be more than his original purchase price for the 1995-96 tax year as well as the tax years under appeal. There are additional facts which support this conclusion.

The real estate market in Florence peaked in the early 90s and the value of property has declined. At the time Mr. Navetta purchased his property in 1992, he was

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

unaware that the water was not potable. As the years have passed, the water situation has not improved as evidenced by a recent letter from a water analyst employed by the Oregon Public Utility Commission to Mr. Navetta. (Ptf's Ex 3 -4.) Plaintiff has deferred maintenance on the improvements to the point where dryrot has weakened and eroded the structure. In addition, BOPTA reduced the real market value of plaintiff's property for the 1999-00 tax year. When all these facts are taken into account, it is unlikely the value of plaintiff's property is more than his original purchase price.

The issue before the court is the real market value of plaintiff's property as of the assessment dates. Based on the evidence submitted by plaintiff and defendant's failure to testify or submit any evidence to refute plaintiff's testimony, the court concludes that the real market value of plaintiff's property for the 1997-98 and 1998-99 tax years was \$55,000.

CONCLUSION

IT IS HEREBY ADJUDGED AND DECREED that the real market value of plaintiff's property described as Lane County Assessor's Account No. 870061 for tax year 1997-98 and 1998-99 was \$55,000.

FURTHER, IT IS HEREBY ADJUDGED AND DECREED that the county

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shall correct the assessment and tax rolls to reflect the above improvements value with any refund due plaintiff to be promptly paid with statutory interest.

Dated this _____ day of August, 2000.

JILL A. TANNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON AUGUST 23, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 23, 2000.