

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Small Claims

Property Tax

SENECA TIMBER CO. PARTNERSHIP, )  
 )  
 Plaintiff, )  
 ) No. 000780D  
 v. )  
 )  
 LANE COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION AND JUDGMENT**

Plaintiff appeals the assessed value of property identified in Lane County Assessor's records as Account No. 748903 for tax years 1997-98 and 1998-99. On July 10, 2000, plaintiff requested in writing that its appeal of the land value of its property be dismissed. A telephone trial was held on Monday, July 17, 2000. Mr. David Carmichael, Attorney, appeared on behalf of plaintiff. Mr. Dale Riddle, Attorney, testified on behalf of plaintiff. Defendant did not appear.

**FACTS**

Plaintiff purchased the structure which was located on a timber tract on September 28, 1992. According to the county records, the structure is located on a five acre parcel and is described as a Class 1 property. (The county's system of classification ranges from 1 to 8 with Class 1 the lowest.) (Ptf's Ex 9.) Mr. Dale Riddle, in-house attorney for plaintiff, testified that the 908 square foot structure under appeal was built in 1930. The structure is described as a 2 bedroom, 1 bath improvement with a flat composition roof, T111 plywood exterior. (*Id.*) Mr. Riddle testified that there was no toilet in the bathroom, no kitchen sink and mildew throughout the structure. The structure is rotting and falling

apart. In his opinion, Mr. Riddle testified that the structure is uninhabitable. Because plaintiff considers the structure a potential liability rather than an asset, he testified that plaintiff requested the tenant leave by June 30, 1998.

According to Mr. Riddle, the forest ranger has suggested that the structure should be destroyed by fire. At the suggestion of the forest ranger, Mr. Riddle testified that plaintiff considered donating the property to the local fire department. The local fire department could use it as a training exercise as part of a controlled burn. Plaintiff would be required to obtain a permit and pay a fee to the local fire department. Plaintiff submitted a copy of defendant's Demolished Building/Manufactured Structures Form. (Ptf's Ex 2.) Mr. Riddle testified that plaintiff has not donated the structure because it is keeping it "solely to protect our future building rights." (Ptf's Ex 1.)

Plaintiff appeals the tax roll value of \$30,980 and \$38,730 for tax years 1997-98 and 1998-99, respectively. Plaintiff believes that because the structure is a liability rather than an asset it has minimal or no value. Mr. Riddle testified that it is way beyond being described as a "fixer-upper." Plaintiff suggests that the real market value is \$500 for tax years 1997-98 and 1998-99. Plaintiff's attorney explained that because its requested value is a difference of more than 20 percent from the tax roll value its appeal is within the statutory provisions of ORS 305.288. Further, plaintiff's attorney stated that the real market value for the 1997-98 tax year is the lowest value during the year and in this case, the lowest value occurred at the time the tenant left the property which was close to the end of the tax assessment year.

Defendant did not appear and did not submit any written testimony in support of its original roll value.

## COURT'S ANALYSIS

The issue before the court is the 1997-98 and 1998-99 real market value of plaintiff's improvement. 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)<sup>1</sup> 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, there is nothing comparable because there is no market for this property. According to undisputed testimony, the forest ranger and plaintiff conclude that the property is uninhabitable and its value, if any, is for a local fire department training exercise as part of a controlled burn. According to plaintiff, it is a liability and it will incur costs to have it removed or demolished in excess of any salvage value.

Defendant did not testify nor submit any evidence to refute plaintiff's allegations.

The court concludes, based on the evidence, that the real market value for tax years 1997-98 and 1998-99 was \$500.

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<sup>1</sup> All references to the Oregon Revised Statutes are to the 1997 Replacement Part.

## CONCLUSION

IT IS HEREBY ADJUDGED AND DECREED that Lane County Assessor's improvements value of Account No. 748903 as of July 1, 1997, and January 1, 1998, was \$500.

IT IS FURTHER HEREBY ADJUDGED AND DECREED that plaintiff's appeal of its land value of Account No. 748903 is dismissed for tax years 1997-98 and 1998-99.

IT IS FURTHER ADJUDGED AND DECREED that the county correct the assessment and tax rolls to reflect the above value with any refund due plaintiff to be promptly paid with statutory interest.

DATED this \_\_\_\_\_ day of July, 2000.

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JILL A. TANNER  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON JULY 25, 2000. THE COURT FILED THIS DOCUMENT ON JULY 25, 2000.**