

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

TRI COUNTY INVESTORS LTD, )  
 )  
 Plaintiff, ) No. 010133B  
 )  
 v. )  
 )  
 DESCHUTES COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

A trial was convened on October 24, 2001. Robert Childers, Officer and General Partner, participated on Plaintiff's behalf. Don Lutz represented the Defendant.

The parties were allowed time subsequent to the trial to attempt to resolve their differences; a resolution did not occur. The record closed on November 24, 2001.

**STATEMENT OF FACTS**

The subject property consists of land and a 16-unit apartment complex. The total holding is split among four separate tax lots. For the 2000-01 tax year, the Defendant placed a real market value (RMV) on each tax lot; the RMV ranged from \$283,245 to \$284,475. At trial Defendant concluded a RMV of \$281,000 for each of the four lots; this was offered in support of the record assessment. Plaintiff seeks a reduction to \$220,000 RMV for each.

Robert Childers developed the subject property. He testified as to his original investment motivations and financing requirements. He intended each tax lot to be individually platted and supported for water, electricity and the like. The four lots share some parking areas, trash receptacles, landscaping and irrigation.

///

Plaintiff's primary evidence of value was the actual costs to construct the subject

property. He concluded a total cost of \$800,000 as of the August 1999 completion period. There was a profit margin of 10% allowed. A profit and loss statement was offered for the 2000 year. That indicated actual net income at \$19,387.32. Also discussed was a listing price for the subject property that far exceeded the current assessment.

The Defendant's witness was a highly qualified real property appraiser. He approached the assignment from two perspectives, that being whether the property was (A) four separate residential four-plexes or, (B) a 16-unit apartment complex. Both views yielded values near the current assessment level.

Defendant's witness also analyzed Plaintiff's reported invested costs. He concluded they were substantially less than the indicated RMV as of January 1, 2000.

### **COURT'S ANALYSIS**

The issue presented is the property's real market value as of January 1, 2000. That, in turn, depends on the property's highest and best use.

The most profitable likely use of the four accounts is as four individual buildings of four units each. ORS 308.232<sup>1</sup>. Each property is individual as to title and platting. There are no legal restrictions prohibiting separate sale or ownership.

Plaintiff's evidence as to value was incomplete. He did not consider the alternative values posed by separate ownership. The cost figures were not compared to other projects in the area.

///

Defendant's evidence as to value was more detailed and supported by documentary evidence. Four sales of comparable properties were examined. Detailed

---

<sup>1</sup> All references to the Oregon Revised Statutes are to 1999.  
DECISION

information about competing rental units was also presented.

In these appeals, a preponderance of the evidence is required to sustain the burden of proof. That burden of proof shall fall upon the party seeking affirmative relief. ORS 305.427. Plaintiff has not met that statutory requirement in this record.

### **CONCLUSION**

IT IS THE DECISION OF THE COURT that the appeal is denied.

Dated this \_\_\_\_ day of January, 2002.

---

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 97301-2563. 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 JANUARY 24, 2002. THE COURT FILED THIS DOCUMENT ON JANUARY 24, 2002.**