

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

THOMAS J. AND K.J. VOGENTHALER)
TRUST,)
)
Plaintiffs,) No. 010218C
)
v.)
)
LINCOLN COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

A trial was held in the above-referenced appeal on July 25, 2001. Thomas Vogenthaler appeared for the plaintiffs. Defendant appeared through Mr. Charles Gross, an appraiser with the Lincoln County Assessor's office. The appeal involves a request for a reduction in the real market value of plaintiffs' home in Newport for the 2000-01 tax year.

STATEMENT OF FACTS

Plaintiffs have requested a reduction in the real market value of their home in northeast Newport to \$158,265, with \$30,000 allocated to the land and the balance to the improvement. These numbers represent plaintiffs' costs to purchase the lot and build the home in 1995. The home is in an area consisting predominantly of manufactured structures. There are about seventy homes in the area, all of which are accessible by one main road.

Plaintiffs' evidence consists of a collection of area sales at various prices, some of which were on the market for extended periods of time and sold for less than the asking price. In some cases the difference was rather dramatic. In his oral presentation to the court at trial, Mr. Vogenthaler addressed three of those sales. The most dramatic example was a home at 455 NE 70th Drive, which was listed for \$199,000 and sold for \$155,000

after a two-year market exposure. The other two properties do not appear to have been on the market for an extended period of time and sold for only slightly less than the list price. Plaintiffs' written materials were not provided to the defendant but Mr. Gross explicitly advised the court that he did not object to the court considering the materials in reaching its decision.¹ Furthermore, while Mr. Gross did not object to the court accepting plaintiffs' sales information, he pointed out that the three properties presented involved manufactured homes while the subject property is a stick built home.

For its part defendant analyzed three sales and concluded that a slight reduction in the improvement value was in order. Defendant has recommended that the value of the improvement be reduced from \$159,400 to \$143,200, bringing the total real market value down to \$182,750, with \$39,550 allocated to the land.

COURT'S ANALYSIS

The issue is real market value, defined by statute 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(1)². The assessment date for the 2000-01 tax year was January 1, 2000. ORS 308.007(1)(a) and 308.210(1). As the party seeking relief, the burden was on plaintiffs to show by a preponderance of the evidence that the value on the

¹Plaintiffs submitted numerous documents to the court with the complaint. Plaintiffs did not provide the defendant with copies of that information. The court had previously advised Mr. Vogenthaler during the May 29, 2001, case management conference that it would accept these exhibits and mark them during the trial. However, the court understood that plaintiffs would provide defendant with a copy of that information and further advised the parties that all future information should be provided both to the court and the other party. That information was contained in a Journal Entry issued May 31, 2001.

²All references to the Oregon Revised Statutes are to 1999.
DECISION

assessment and tax rolls was in error. That demonstration has been made, not by plaintiffs' evidence, but by defendant's acknowledgment that the improvement value should be reduced. The court is unable to draw any conclusions from plaintiffs' evidence. Plaintiffs' sales, at least those addressed at trial, do not appear to be comparable because they involve manufactured homes and the subject is a stick built home. Moreover, there are numerous differences between the "comparables" and plaintiffs' home and Mr. Vogenthaler made no adjustments to account for the differences. Furthermore, plaintiffs have asked the court to set the value as of January 1, 2000, to match the cost in 1995 and the court is not persuaded that values have not risen during the more than four years at issue. The parties' values differ by roughly 13 percent and an annual rise of less than four percent since 1995 would support the value urged by defendant. Defendant's evidence is not without problems, the most notable of which is that net adjustments amount to 27 percent of the sale price for two of the comparables (sales #1 and #3) and 57 percent for the third (sale #2). In addition, certain single adjustments on each property are quite significant. Nonetheless, defendant concludes that a reduction is in order and the court finds it appropriate to accept defendant's recommendation.

CONCLUSION

For the record, the court's oral denial of defendant's motion to dismiss plaintiffs' complaint, conveyed to the parties during the May 29, 2001, case management conference and embodied in the court's Journal Entry filed May 31, 2001, is incorporated by reference into this decision.³ On the value issue, the court concludes that the real

³Defendant in its Answer moved for dismissal because plaintiffs' petition to the County Board of Property Tax Appeals (board) was untimely. The court addressed the motion during the May 29, 2001, case management conference and allowed the case to go forward to trial based on a finding that the reduction in value requested by the plaintiffs

market value on the assessment and tax rolls exceeds the actual market value and that a reduction in the value of the improvement (a house) is in order based on defendant's recommendation. The court is not persuaded that plaintiffs' evidence supports a further reduction.

IT IS THE DECISION OF THE COURT that the real market value on the assessment and tax rolls, for the 2000-01 tax year, of the property identified in the Lincoln County Assessor's records as Account No. R504645, shall be reduced from \$198,950 to \$182,750, with \$39,550 allocated to the land and \$143,200 to the improvements.

Dated this _____ day of August, 2001.

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 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 ROBINSON ON AUGUST 3, 2001. THE COURT FILED THIS DOCUMENT ON AUGUST 3, 2001.

constituted an error of 20 percent as measured against the improvement component of the total real market value on the assessment and tax rolls. That finding was embodied in a Journal Entry filed May 31, 2001.

DECISION