

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

ROBERT L. REGHITTO,	)	
	)	
Plaintiff,	)	No. 010271C
	)	
v.	)	
	)	
WASCO COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff is appealing the land value of certain real property for the 2000-01 tax year. A trial was held on September 19, 2001. Plaintiff appeared on his own behalf. Mr. Tim Lynn, an appraiser with the Wasco County Assessor's Office, appeared for Defendant.

**STATEMENT OF FACTS**

The subject property is a .55 acre corner lot zoned A-R (Agricultural-Recreational) and located near Pine Hollow Lake in north/central Oregon. The primary use of land in the area is recreational and most of the improved lots have manufactured homes rather than stick built structures. The subject property is identified by Wasco County Assessor's Account No. 11379 (Map 4S1210BB, tax lot 3600), and is located at the intersection of Mike Road and High Road. The property is improved with an old travel trailer of nominal value to which Plaintiff has attached a covered deck. There are also several outbuildings. The structures are not at issue.

Plaintiff petitioned the county board of property tax appeals (board) and the board set the values as follows:

Land:	\$ 60,000
Structures:	\$ 500
MS:	\$ 1,000
TOTAL:	\$ 61,500

The land value prior to the board ordered reduction was \$69,990. Plaintiff has asked the court to reduce the land value to \$30,000. Defendant requests the value be restored to \$69,990.

A description of the neighborhood is helpful to a proper understanding of the evidence. In the area of the subject property, the streets more or less ring the lake. The topography slopes gradually upward from the lake in such a manner that lakefront lots and lots several blocks away from the lake have views of the water. Those in between do not. Plaintiff's lot is in between and does not have a view of the lake. Defendant in its written materials refers to the successive streets as tiers and makes location adjustments accordingly. This is explained more fully below.

Prior to trial, Plaintiff submitted an extensive packet of written materials that included photographs and selected materials from Defendant's exhibits. In his oral presentation at trial, Plaintiff narrowed somewhat his focus and addressed thirteen properties in the general area of his lot. Of that number, seven involved actual sales and six were listings. Both categories included some land-only properties and some improved with structures (i.e., homes and outbuildings). Among the sales Plaintiff presented are five transactions occurring between 1998 and August 2000. Four are bare land sales and one had a trailer and a shed, as does the subject. The sale prices for the five properties are \$35,000 (1998 land-only sale of lot 3700) (Def's Ex E14), \$35,000 (May 1999 land-only sale of lot 1300) (Def's Ex E10), \$44,000 (June 2000 sale of lot 4800, with trailer & shed) (Def's Ex E14), \$42,000 (June 2000 land-only sale of lot 5600) (*Id*), and \$48,000 (August 2000 land-only sale of lot 4300) (*Id*). Three of these sales occurred after the January 1, 2000, assessment date. Two of the five sales (lots 3700 and 4800) are properties essentially next door to the subject across Mike Road. Lot 4800, which sold in June 2000, has a lake view but is farther from the water. Lot 3700, which was a bare land sale in 1998, is smaller than the subject (.37 ac. vs. .55 ac.) but is

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located an equal distance to the lake. Another of these sales (lot 1300) involves a larger lot (.76 ac.). Defendant feels the sale of lot 1300 in May 1999 for \$35,000 was "low." Plaintiff also testified that a lot with a trailer and a shed was listed for sale at the time of trial for \$52,000 (lot 4900). That property is one block farther from the lake than the subject but has a view of the water. The county roll value (RMV) is \$50,110. These and the other sales and listings in Plaintiff's written materials lead Plaintiff to conclude that his lot, currently valued at \$60,000, should be reduced to \$30,000.

According to Defendant, the Pine Hollow area was physically reappraised by the assessor's office for the January 1, 2000, assessment date. Defendant asserts the value originally set by the assessor, at \$69,990, is supported by its value analysis prepared for trial. Defendant submitted a two-page narrative land value analysis with seven attached exhibits (A through G). The exhibits include various county maps and computations demonstrating, at least in some cases, how Defendant's adjustments were derived. Defendant's representative testified that he considered all sales occurring after January 1, 1998. According to the testimony, only three transactions involved bare land sales. Because there were many sales of improved lots Defendant considered these transactions as well. For the improved sales (properties with structures) Defendant derived a land residual value by subtracting an improvement value apparently taken from the tax rolls. From this, Defendant established a base value of \$37,500 for a one-half acre lot. Defendant then determined location adjustments of the several "tiers." The adjustments are 1.05 percent for an "airstrip lot," 1.25 for a "tier 4" lot, 1.65 for "tier 3", and 2.00 for "tier 2." Waterfront properties were considered to be "tier 1" and given a separate base value. The subject property was determined to be "tier 3." It was therefore adjusted up 1.65 percent (from the \$37,500 base value) for an adjusted base

value of approximately \$61,900.<sup>1</sup> Defendant then applied a 1.05 percent size adjustment, which brought the adjusted land base value to \$64,990. (Def's Market Value Analysis at 2.) After adding \$5,000 for on-site developments, Defendant determined the total land value to be \$69,990.

### COURT'S ANALYSIS

ORS 308.232<sup>2</sup> requires that all land not exempt from taxation or subject to special assessment "shall be valued at 100 percent of its real market value." ORS 308.205 defines real market value 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." The assessment date for the 2000-01 tax year was January 1, 2000. ORS 308.007(1)(a). The determination of real market value is a factual one, and is based on the record before the court as developed by the parties. *MacHaffie v. Dept. of Rev.*, 312 Or 122, 124, 817 P2d 1311 (1991). Plaintiff, as the party seeking affirmative relief, has the burden of proof and must show, by a preponderance of the evidence, that his approach best reflects real market value. ORS 305.427. Pursuant to ORS 308.205(2), the Department of Revenue (department) has adopted rules and procedures for determining real market value.

There are three commonly accepted approaches to value. See, e.g., OAR 150-308.205-A(2). They are all to be considered in valuing property. OAR 150-308.205-A(2)(a). Both parties in this case have selected the sales comparison approach, which is preferred where, as here, adequate data exists. *Ward v. Department of Revenue*, 293 Or 506, 511, 650 P2d 923 (1982), citing *Portland Canning Co. v. Tax Com.*, 241 Or 109,

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<sup>1</sup> \$37,500 x 1.65 = \$61,875.

<sup>2</sup> All references to the Oregon Revised Statutes are to 1999.

113, 404 P2d 236 (1965).

Plaintiff's bare land sales overall are similar or slightly higher than Defendant's base value of \$37,500 for a half acre lot. Plaintiff has two bare land sales (lots 3700 & 1300) for \$35,000, one in 1998 and another in May 1999. The other bare land sales are in 2000, after the January 1, 2000, assessment date. Those sales prices are \$44,000, \$42,000, and \$48,000. While they cannot be used alone to prove a parties' case, post-assessment date sales can be used as a check on value. *Sabin v. Dept. of Rev.*, 270 Or 422, 427-428, n11, 528 P2d 69 (1974); *Truitt Brothers, Inc. v. Dept. of Rev.*, 10 OTR 111, 115-116 (1985). Collectively, these transactions suggest a market value well below \$64,990, which is Defendant's land value estimate for the subject before factoring in the on-site developments.

However, the department's rules require that transactions be verified "to insure they reflect arms-length market transactions." OAR 150-308.205-A(2)(c). It is not clear whether any of Plaintiff's sales are verified to ensure the parties were unrelated, property motivated, and otherwise acting in self interest. Defendant at trial challenged Plaintiff's 1998 land-only sale of lot 3700 for \$35,000 specifically on the grounds it was not "confirmed." Plaintiff testified he spoke to a neighbor but did not elaborate. Defendant later expressed agreement with Plaintiff's June 2000 sale of lot 4800 for \$44,000, though Defendant did not use that sale in its data pool. The other sales are not challenged. Removing the 1998 unverified sale for \$35,000 still leaves four sales ranging from \$35,000 to \$48,000. This evidence is persuasive and suggests the roll value as reduced by the local board to \$60,000, is still high. The court finds unpersuasive Plaintiff's other evidence of sales because those transactions involve improved properties (land and improvements) that appear quite dissimilar to the subject and Plaintiff has not shown he is qualified in property appraisal so as to be able to make appropriate adjustments to arrive at a residual land value.

Defendant appears generally to agree with at least some of Plaintiff's comparable sales. However, Defendant adjusted its base value for location and size to arrive at its estimate of \$69,990 (land and on-sites) for the subject property, which is slightly larger than one-half acre. The location adjustment is substantial. Defendant increases the base value nearly \$25,000 (1.65%) because the property is a "tier 3."

Adjustments are generally necessary in the comparable sales approach because no two properties are exactly alike in every detail. *Ward*, 293 Or at 509, citing *J. R. Widmer, Inc. v. Dept. of Rev.*, 4 OTR 361, 366 (1971), aff'd 261 Or 371, 494 P2d 854 (1972). Plaintiff has failed to demonstrate that Defendant's location adjustment is unreasonable. However, the court is not clear how Defendant arrived at its location adjustment. The matter was only briefly passed over at trial. The sales presented to establish the location adjustment primarily involved improved sales at or above \$100,000, with considerable adjustments to arrive at a base land residual. (Def's Ex B, sales # 6, 11, 13, 15, S9.) A close examination of Defendant's written materials fails to bring clarity to the issue. The improvement values that were subtracted apparently came from the tax rolls. The court recognizes that the area was reappraised by the assessor's office for the 2000 tax year but that process was still one of mass appraisal and does not necessarily produce accurate values for a given property. This was noted by the court in *Jones v. Dept. of Rev.*, 12 OTR 237, 241 (1992), where Judge Byers stated:

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"It is common knowledge that tax assessors value property on a mass-appraisal basis. While an assessor may do his or her best to assess every property at its real market value, it is inevitable that errors will occur."

Moreover, the court is not persuaded that a size adjustment is appropriate where the difference between the base lot and the subject is only .05 acres. Removing these adjustments tends to support Plaintiff's case. With these factors in mind, the court is back to the question of whether any adjustments are appropriate, and particularly

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whether the location adjustment is warranted. The court accepts that some adjustment is appropriate. However, having found the adjustments to be questionable in their degree, the evidence does not aid the court in arriving at a more accurate figure.

### **CONCLUSION**

After carefully reviewing the evidence, the court concludes the real market value of Plaintiff's land, including on-site developments, as of January 1, 2000, was \$42,000. This number falls comfortably within the range of Plaintiff's bare land sales and tends to be supported by Defendant's unadjusted land value.

IT IS THE DECISION OF THE COURT that the real market value of the property, described as Wasco County Assessor's Account No. 11379, was \$42,000, as of January 1, 2000.

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

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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 DAN ROBINSON ON MARCH 20, 2002. THE COURT FILED THIS DOCUMENT ON MARCH 20, 2002.**