

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

A. LEE SJOTHUN,	)	
	)	
Plaintiff,	)	No. 010430E (Control)
	)	
v.	)	
	)	
MARION COUNTY ASSESSOR,	)	
	)	
Defendant.	)	
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A. LEE SJOTHUN and JEANNE M. SJOTHUN,	)	
	)	
Plaintiffs,	)	No. 020517E
	)	
v.	)	
	)	
MARION COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs appeal the 2000-2001 and 2001-02 real market values assigned to their personal residence.<sup>1</sup> Trial in the matter was held May 22, 2002. A. Lee Sjothun appeared and testified on his own behalf. Also testifying for Plaintiffs were John P. Totten, MAI, and Connie Hinsdale, Real Estate Broker. Jeff Procter, Senior Property Appraiser, appeared and testified on behalf of Defendant. For ease of reference herein, the parties are referred to as “taxpayers” and “the county.”

**STATEMENT OF FACTS**

The subject property is located off Firgrove Lane in Keizer, Oregon. Construction on the home was completed in July 2000. Both parties agree the home was 66 percent complete on January 1, 2000, which is the date of assessment for the 2000-2001 tax year. The home has 5,636 square feet, with 3,942 square feet on the

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<sup>1</sup> The subject property is identified in Defendant’s records as Account Nos. R322816 and R320579.

first floor and 1,694 square feet on the second floor. (Ptf's' Ex 1 at 9.) There are three bedrooms with three full bathrooms and two half bathrooms. It has four fireplaces, a temperature controlled wine cellar, and a three-car attached garage. Outside, the property boasts a heated swim pool and masonry hot tub. (*Id.*) Both parties agree the home is a high quality structure. The home sits at the back of a long narrow parcel off Firgrove Lane. The lot is 1.11 acres in size, and Firgrove Lane operates as an easement across the eastern portion of the subject property. To the west, the property has a pastoral view of farmland. To the east, at the end of the lane, is a subdivision of homes in the \$150,000 range.

For the 2000-2001 tax year, the county assigned the property a real market value of \$577,580. (Ptf's' Ex 1 at 7.) For the 2001-02 tax year, the county valued the property at \$904,160. (*Id.*) On appeal, both parties presented appraisals of the property. The county has determined the real market value for the 2001-02 tax year should be reduced to \$820,000. Valuing the improvements at 66 percent, as agreed, leads to the county's proposed real market value for the 2000-2001 tax year of \$599,740. (Def's Ex A at 2.) Taxpayers argue the value for the 2001-02 tax year should be \$675,000, which results in an alleged value of \$500,000 (rounded) for the 2000-2001 tax year. (Ptf's' Ex 1 at 1.)

To support their claim of value, taxpayers presented an appraisal prepared by John P. Totten, MAI. Mr. Totten testified in support of his appraisal at trial. Mr. Totten's appraisal does not make quantitative adjustments to comparable sales to arrive at an indicated value for the subject property. Instead, Mr. Totten's appraisal analyzes the comparable sales on a qualitative basis and then rates them as either inferior or superior to the subject property. Mr. Totten testified that large custom homes, like the subject property, have similar amenities so that quantitative adjustments are difficult to

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make. Instead, he explained, more important to the appraisal process are the location, quality, size, and overall appeal of the properties. Mr. Totten testified it is a “gut instinct” that tells an appraiser whether the property is overall inferior or superior.

Mr. Totten gathered nine sales that occurred in Marion County between April 2000 and January 2001. As explained, he compared them generally to the subject for overall appeal and categorized them as either inferior or superior. (Ptf’s Ex 1 at 31.) He then determined the price per square foot for each sale. Five of the sales he ranked as inferior. The inferior sales had a price per square foot ranging from \$105.94 to \$112.24. The four sales he ranked as superior had a price per square foot ranging from \$130.40 to \$150.00.<sup>2</sup> After evaluating the sales, Mr. Totten determined that a price per square foot of \$120 was appropriate for the subject property. Applying this price to the square footage of the subject property led him to a real market value conclusion of \$675,000 (rounded) for the 2001-02 tax year. For the 2000-2001 tax year, he subtracted the land value appearing on the assessment roll of \$170,620 to arrive at an improvement value of \$504,380. Applying 66 percent to this figure results

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Sale No.	Ranking	Price/Square Foot
6	Inferior	\$105.94
1	Inferior	\$107.13
5	Inferior	\$107.13
8	Inferior	\$110.26
2	Inferior	\$112.24
9	Superior	\$130.40
3	Superior	\$143.77
7	Superior	\$145.00
4	Superior	\$150.00

in an improvement value of \$332,890, for an overall recommended value of \$503,510.<sup>3</sup>  
(Ptf's' Ex 1 at 33.)

Connie Hinsdale, a real estate broker, also testified in support of a lower value for the subject property. She prepared a "Comparative Market Analysis" for the property. In doing so, she conducted a search on her computer program for sales ranging from \$500,000 to \$800,000. She selected six sales and determined their price per square foot. She arrived at an average price per square foot of \$129 and applied it to the square footage of the home to arrive at a value of \$727,044.<sup>4</sup> (Ptf's' Ex 2 at 3.) From this value, she subtracted \$50,000 for the fact the home was located next to a subdivision of \$150,000 homes, and she subtracted another \$50,000 for the fact the home was located in Keizer, a market with few upper end homes. Overall, she arrived at a value of \$627,044.<sup>5</sup>

Jeff Procter, Senior Property Appraiser for the county, prepared an appraisal of the property. Mr. Procter analyzed the market and selected four sales to compare to the subject property. He did not perceive a problem with applying quantitative adjustments to the comparable sales. He applied adjustments for age, size, pool and spa, quality, and site factors. After adjustments, the four sales indicated a value for the

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<sup>3</sup> The court notes that the land is broken down into two accounts. Account No. R322816 values the land at \$170,620 for the 2000-2001 tax year. Account No. R320579 values the additional land at \$12,220. (Def's Ex A at 2.) Mr. Totten failed to factor in the additional land value in his calculation. If he had, the recommended value for the 2000-2001 tax year would have been \$507,666.

$$\begin{aligned} (\$675,000 - \$182,840) \times .66 &= \$324,826 \text{ (improvement value)} \\ &\quad \$182,840 \text{ (land value)} \\ &\quad \$507,666 \text{ (total value)} \end{aligned}$$

<sup>4</sup> Upon reviewing Ms. Hinsdale's figures, the court is unclear how she arrived at an average price per square foot of \$129. Adding the six price per square foot figures provided (\$129, \$125, \$145, \$127, \$117, and \$140) and dividing by six leads to an average price per square foot of \$130.50.

<sup>5</sup> Originally, Ms. Hinsdale used a square footage for the subject property of 5,900. At trial, she corrected it to 5,636, which resulted in a lower recommended value.

subject property of \$775,000, \$800,000, \$825,000, and \$820,000. (Def's Ex A at 21.) The county placed most of its reliance on sale four, which resulted in its recommended value for the 2001-02 tax year of \$820,000.

### **COURT'S ANALYSIS**

The court has reviewed the appraisal reports and market analysis presented by the parties. The subject property is a beautiful, high quality home with a location that makes appraisal of the property difficult. The court finds strengths and weaknesses in each of the valuation proposals. In reviewing Ms. Hinsdale's proposal, the court recognizes she is a real estate broker who is familiar with the Keizer market. However, in deriving the sales, Ms. Hinsdale's only criteria was the sale price, which she preselected. In doing her search for sales, she selected the parameters of \$500,000 to \$800,000. Such a process assumes a result before doing the analysis. Further, Ms. Hinsdale applied a blanket location and neighborhood adjustment of \$50,000 each. Although the court believes such an adjustment is warranted, the application of \$50,000 for each factor seems somewhat arbitrary without more support. In a case where no appraisals are presented, the comparative market analysis may have more significance. However, in this case, where the court is presented with two appraisals, the court chooses to rely on them for its value conclusion.

In reviewing the appraisals submitted by Mr. Totten and Mr. Procter, the court notes that two of the sales were commonly used by them. Mr. Procter's Sale 2, on Konaway Loop, is Sale 7 used by Mr. Totten. Sale 3 used by Mr. Procter, which is on Webster Drive, is Mr. Totten's Sale 8. For the sale on Konaway Loop, the parties used differing square footages. Mr. Procter listed the home as having 3,693 square feet, (Def's Ex A at 21), whereas Mr. Totten listed it as having 4,000 square feet, (Ptf's Ex 1 at 31). Mr. Procter used the square footage found in the county's records, and he

observed that a square footage figure of 4,000 appears to be a rounded figure. Mr. Totten indicated he obtained the 4,000 square foot figure from the listing of the home. If it is in error, he maintained it would not have an impact on the analysis because the sale price was negotiated between the parties using this 4,000 square foot figure. This may be true, although it is likely that, during the purchase process, the buyer became aware through the appraisal process or otherwise that the listing was in error. In any event, the court notes that using a square foot figure of 3,693 in Mr. Totten's analysis increases the price per square foot of this comparable from \$145.00 to \$157.05. The court will consider this value difference in its analysis of Mr. Totten's appraisal.

Mr. Procter expressed concerns with Mr. Totten's qualitative approach to the appraisal process. Although the quantitative approach is more commonly used, the qualitative approach is acceptable when the appraiser determines quantitative adjustments cannot be made. See Appraisal Institute, *The Appraisal of Real Estate* 445 (12<sup>th</sup> ed 2001). Mr. Totten testified that, in his professional opinion, the qualitative approach presented a more reliable value indicator than the quantitative approach when valuing upper end homes. The court accepts that each process has its strengths and weaknesses and will evaluate each appraisal on its own.

As noted above, Mr. Totten ranked five of his comparable sales as inferior. The inferior sales ranged in price per square foot from \$105.94 to \$112.24. The four sales ranked as superior ranged in price per square foot from \$130.40 to \$150.00. The court notes that using the county's square footage figure for the Konaway Loop sale, which was ranked as superior by Mr. Totten, would increase the upper end of the range to \$157.05. Mr. Totten recommended a price per square foot of \$120 be applied to the subject.

When reviewing the appraisal, the court is concerned with Mr. Totten's ranking of two of the sales. Both sales occurred on Cresmont Circle in the Croisan Mountain area of Salem. Sale 3, which sold for \$520,000, has 3,617 square feet of finished living area with a 1,000 square foot unfinished basement. It was built in 1994 and has a two-car attached garage with a 350 square foot studio over the garage. It has four bedrooms and three and one-half baths. Mr. Totten observed: "The house is inferior to the subject property, but it is in a vastly superior location, has a superior view, but has a smaller lot at 0.35 acres. Overall, this property is superior to the subject and it sold for \$143.77 per square foot of finished area." (Ptf's' Ex 1 at 29.) Sale 5, which sold for \$517,000, has 4,826 square feet of finished living area. It was built in 1999 and has four bedrooms, two and one-half baths, and a three-car attached garage. Mr. Totten observed: "The house is inferior to the subject property, but it is in a superior location, has a superior view and has a smaller lot. Overall, this property is inferior to the subject and it sold for \$107.13 per square foot." (*Id.*)

Upon reviewing the two homes, Mr. Totten described them the same except that Sale 3 had a "vastly" superior location as opposed to just a superior location for Sale 5. During trial, the court questioned Mr. Totten how two similar properties located on the same street could have different rankings. He explained that Sale 5 is located on a corner lot and has an "awkward" driveway and front yard. During this explanation Mr. Totten described the process as one of a "gut instinct."

As explained above, Mr. Procter used four comparable sales and made quantitative adjustments to them. Sale 1 sold for \$800,000 and Mr. Procter adjusted it for age, size, porch/patio, quality, and site factors. He made gross adjustments of \$335,000 and net adjustments of -\$25,000 to arrive at an adjusted sale price of

\$775,000. Sale 2 sold for \$580,000. He adjusted it for size, porch/patio, quality, and site factors. He made gross adjustments of \$270,000 and net adjustments of \$220,000 to arrive at an adjusted sale price of \$800,000. Sale 3 sold for \$522,500. Mr. Procter adjusted it for age, size, porch/patio, quality, and site factors. He made gross and net adjustments of \$305,000 to arrive at an adjusted sale price of \$825,000. Sale 4 sold for \$910,000. Mr. Procter adjusted it for size, porch/patio, quality, and other buildings. He made gross adjustments of \$320,000 and net adjustments of -\$90,000 to arrive at an adjusted sale price of \$820,000. Mr. Procter did not adjust the sales to reflect the subject's location next to a subdivision of \$150,000 homes and its location in Keizer. He testified he did not believe a location adjustment was required.

After reviewing the two appraisals, the court is persuaded that the real market value of the home is more likely somewhere in between the two opinions of value. The court believes Mr. Procter should have applied a location adjustment to the comparable sales. The subject property is located next to a subdivision of \$150,000 homes, whereas the comparable sales were in areas with similar, upper end homes. The court further believes that an adjustment is warranted for the fact the property is located in Keizer. In reviewing Mr. Procter's Sale 4, upon which Mr. Procter placed the greatest reliance, the court observes that it is located in West Salem in an area of similar quality homes. Applying a location adjustment to this sale would decrease Mr. Procter's opinion of value. Further, the court notes that the nature of the homes caused Mr. Procter to make large gross adjustments. The larger the adjustments, the less reliable the value indicated.

Mr. Totten's appraisal, however, is similarly not without its problems. In reviewing his appraisal, the court is persuaded that the value per square foot used is too low. The price per square foot range went from \$105.94 to \$150.00 (or \$157.05).

The inferior sales ranged from \$105.94 to \$112.24 and the superior sales ranged from \$130.40 to \$150.00 (or \$157.05). Mr. Totten used a figure of \$120, which lies in the low end of the range. After evaluating the sales, the court is persuaded the price per square foot needs to be increased to balance the range. The court believes a price per square foot of \$129 is more appropriate for the subject property. Applying this figure to the square footage of 5,636 for the subject property leads to an indicated value of \$727,044 for the 2001-02 tax year. Subtracting the land value of \$182,840 for the 2000-2001 tax year, results in an improvement value (completed) of \$544,204. Applying the 66 percent complete figure to this value results in an improvement value of \$359,175, for an overall value for the 2000-2001 tax year of \$542,015.

### **CONCLUSION**

After evaluating the two appraisals, it is the court's opinion that a price per square foot of \$129 is appropriate for the subject property. As a result, the property's real market value for the 2000-2001 tax year was \$542,015 and the real market value for the 2001-02 tax year was \$727,044. Now, therefore,

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IT IS THE DECISION OF THIS COURT that the real market value of the property identified in the county's records as Account Nos. R322816 and R320579 was \$542,015 for the 2000-2001 tax year and \$727,044 for the 2001-02 tax year.

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

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COYREEN R. WEIDNER  
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 COYREEN R. WEIDNER ON NOVEMBER 13, 2002. THE COURT FILED THIS DOCUMENT ON NOVEMBER 13, 2002.**