

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

DONALD M. HASKELL,	)	
	)	
Plaintiff,	)	TC-MD 010747B (Control);
	)	010748B; 010749B;
v.	)	010750B; 010752B
	)	
CLATSOP COUNTY ASSESSOR,	)	
	)	
Defendant.	)	
<hr/>		
DONALD M. HASKELL and CAROL R. HASKELL,	)	
	)	
Plaintiffs,	)	TC-MD 010751B; 020879B
	)	
v.	)	
	)	
CLATSOP COUNTY ASSESSOR,	)	
	)	
Defendant.	)	
<hr/>		
KLASKANINE LLC, an Oregon Limited Liability Company,	)	
	)	
Plaintiff,	)	TC-MD 020875B; 020876B
	)	020877B; 020878B
v.	)	
	)	
CLATSOP COUNTY ASSESSOR,	)	
	)	
Defendant.	)	
<hr/>		
IRVING AVENUE LLC, an Oregon Limited Liability Company,	)	
	)	
Plaintiff,	)	TC-MD 020880B
	)	
v.	)	
	)	
CLATSOP COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs<sup>1</sup> appeal the real market value of their properties for tax years 2000-2001 and 2001-02. A trial was held in Astoria. Harold Snow represented Plaintiffs. John Solheim appeared for Defendant.

### STATEMENT OF FACTS

The properties under appeal consist of Donald and Carol Haskell's personal residence; four contiguous duplex buildings, each with a separate tax lot and account (Klaskanine properties); and two contiguous duplex buildings on one account but two tax lots (Irving property). The following table sets forth the account numbers, years under appeal, and the addresses.

<i>TC-MD</i>	<i>Account</i>	<i>Location</i>	<i>Tax Year</i>
010751B	26398	Lexington	2000-2001
020879B	26398	Lexington	2001-02
010752B	25199	1089 & 1091 Irving	2000-2001
020880B	25199	1089 & 1091 Irving	2001-02
010747B	25355	980 Klaskanine	2000-2001
020875B	25355	980 Klaskanine	2001-02
010748B	25358	920 Klaskanine	2000-2001
020878B	25358	920 Klaskanine	2001-02
010749B	25356	960 Klaskanine	2000-2001
020876B	25356	960 Klaskanine	2001-02
010750B	25357	940 Klaskanine	2000-2001
020877B	25357	940 Klaskanine	2001-02

At the start of the trial, the parties agreed to the following for the property known in

---

<sup>1</sup> Plaintiffs in these cases are related parties. For purposes of clarity, the court will refer to Donald Haskell as Plaintiff. When referring to Plaintiffs, the court is referring to all Plaintiffs in these cases.

Clatsop County tax records as Account 26398:

	TC-MD 010751B 2000-2001	TC-MD 020879B 2001-02
Land	\$176,000	\$184,800
Improvements	<u>\$307,000</u>	<u>\$325,420</u>
Total RMV	\$483,000	\$510,220

Sometime during the 1970s, Donald and Carol Haskell decided that upon their retirement they would move to Astoria. In accordance with their plan, they hired a local real estate broker to help them look for investment properties. Plaintiff began buying investment properties in 1984. He buys them for both income and appreciation. Currently, Plaintiff owns a total of 66 apartment units in Astoria and has formed a management company, Wacoma Partners (Wacoma). In addition to the participation of Donald Haskell and Carol Haskell in their business, Wacoma employs four employees - a property manager, a bookkeeper, and two maintenance employees. Wacoma manages only Plaintiff's properties.

#### Irving Avenue Property

As noted above, the Irving property consists of two contiguous duplexes, on two tax lots but one account. The duplexes are a legal nonconforming use. The modest duplexes were built in 1967. Plaintiff purchased the two duplexes in one transaction in 1984. Three of the units have two bedrooms and one bath. Those three units are approximately 768 square feet each. The fourth unit is one bedroom and one bath. It is somewhat smaller. The duplexes are up and down units, that is, one unit is on the first floor and one unit is on the second floor. The upstairs units have a view of the Columbia River. The duplexes

share ingress and egress, parking, garbage collection area, and a laundry room. Each building has its own water meter. The average stay for a tenant is 12 to 18 months. During the years at issue, the monthly rent of the one bedroom unit was between \$440 and \$485; the monthly rent of the two bedroom units was between \$485 and \$535. (Ptf's Ex 8.) Plaintiff requests a real market value of \$30,000 per unit or a total of \$120,000 for the years as issue. Defendant requests the following values:<sup>2</sup>

	TC-MD 010752B 2000-2001	TC-MD 020880B 2001-02
Land	\$111,436	\$118,122
Improvements	<u>\$ 84,064</u>	<u>\$ 77,378</u>
Total RMV	\$195,500	\$195,500
Total MAV	\$159,317	\$164,096

### Klaskanine Properties

As noted above, the Klaskanine properties consists of four contiguous duplex buildings, each with a separate tax lot and account. These duplexes are legal nonconforming uses. The duplexes were built in 1973. Plaintiff purchased the four duplexes in one transaction in 1984. Each of the eight units has two bedrooms and one bath. The units are each approximately 870 square feet. The duplexes share ingress and egress, parking, and garbage. Each duplex has its own water meter. The 920 and 940 Klaskanine duplexes face each other as do 960 and 980 Klaskanine. The duplexes facing each other share a common sidewalk. During the years at issue, the monthly rent of each two bedroom unit was between \$575 and \$630. Each of the four tax lots "contain[s] an

---

<sup>2</sup> The requested real market values for the improvements are a slight reduction from that ordered by the board of property tax appeals (BOPTA).

easement for utilities, and ingress and egress over and across the north 15 feet and further indicate[s] that the properties will be sold subject to the easements." (Def's Ex B at B1.)

David Bechtel, maintenance supervisor of Wacoma, testified as to the condition of the properties. He testified to replacing floors in some of the units, rot in rim joists, standing water under all the buildings in the winter, rotted floors and siding, and some mold issues. Ralph Nordstom testified as to the quality of construction. He has lived in his house, directly behind the subject properties for 48 years. He watched the properties being built and testified that, in his opinion, they were not very well built. Solheim expressed concern about the testimony relating to the condition of the property, arguing that those conditions were not known on the assessment dates so they would not be a factor in valuing the properties.

Plaintiff requests a real market value of \$30,000 per unit or \$60,000 per duplex for a total of \$240,000 for the years as issue. Defendant requests the following values:<sup>3</sup>

Acct			<u>Land</u>	<u>Improve</u>	<u>Total</u>
25355	2000-2001	RMV	\$ 32,920	\$ 70,180	\$ 103,100
		MAV			\$ 88,999
	2001-02	RMV	\$ 34,895	\$ 68,205	\$ 103,100
		MAV			\$ 91,668
25356	2000-2001	RMV	\$ 32,920	\$ 70,180	\$ 103,100
		MAV			\$ 91,674
	2001-02	RMV	\$ 34,895	\$ 68,205	\$ 103,100
		MAV			\$ 94,423
25357	2000-2001	RMV	\$ 32,920	\$ 70,180	\$ 103,100

---

<sup>3</sup> The requested real market values for the improvements are a slight reduction from that ordered by BOPTA.

		MAV			\$ 91,674
	2001-02	RMV	\$ 34,895	\$ 68,205	\$ 103,100
		MAV			\$ 94,423
25358	2000-2001	RMV	\$ 32,920	\$ 70,180	\$ 103,100
		MAV			\$ 90,297
	2001-02	RMV	\$ 34,895	\$ 68,205	\$ 103,100
		MAV			\$ 93,005

### Valuation Theories

A number of witnesses testified for Plaintiffs as to the appropriate method of valuing both the Irving property and the Klaskanine properties. The witnesses were uniform in their testimony that the properties should be valued using the income approach to valuation. Plaintiff testified that the properties incur a higher than normal level of expenses. Gail Webb, an Oregon certified general appraiser, testified that the properties are multi-family investment properties that the market would value using the income approach. He estimated the net operating income (NOI) of the Irving property at \$12,375. Assuming a 10 percent capitalization rate, he arrived at an estimated value of \$123,750 or rounded to \$125,000. For the Klaskanine properties, he estimated an NOI of \$30,250. Again assuming a 10 percent capitalization rate, he arrived at a total estimated value of \$302,500, rounded to \$305,000. He discounted using the gross rent multiplier (GRM) testifying the GRM is too broad, with no way to factor in expense ratios. He contrasted the GRM with NOI testifying that NOI relates better to the quality of the investment and future income stream. Although Plaintiff submitted a myriad of evidence, much of it relating to income, no appraisal was submitted. Webb's estimates of value for the properties were

given by testimony only.

Although not labeling his exhibits appraisals, Solheim prepared a careful written analysis for both the Irving property and the Klaskanine properties. He considered the cost approach but discarded it due to the age of the properties. He also considered the income approach but discarded it as well because in his professional experience, and conversations with fee appraisers, "properties such as [d]uplexes, [t]riplexes, and [f]ourplexes, whether sold individually or in groups, neither sell nor are valued based upon their [n]et [o]perating [i]ncome." (Def's Ex B at B12, Ex C at C8.) Thus he relied on the market approach to valuation.

Within the market approach, two methods were used. Solheim used GRM and a comparison of sales price by living unit. In using GRM, he explained that the method "has the most uniform application across differing management styles." (Def's Ex B at B13, Ex C at C8.) In other words, he viewed the uniform application as a strength, rather than a weakness. GRMs, according to Solheim, tend to be smaller as the number of units in a building increases. The GRMs in his 10 comparable sales varied between 7.8 and 10.18. He used a GRM of 7.8 because that sale was viewed as most comparable; the fourplex, although a private sale, is in Astoria and also has some deferred maintenance issues.

Solheim employed two variations within the comparison by living unit methodology. He employed a sales price per square foot of gross building area and sales price per living unit. Although he calculated estimates of value based on sales price per square foot, he gave the least weight to this method because this method "may include building area not actually leased to the [t]enant." (Def's Ex B at B16, Ex C at C12.) In comparing the sales price per living unit, the 16 sales varied from \$31,250 to \$73,333 per living units. (Def's Ex B at B41, Ex C at C36.) After taking into account the location of the sales and

other factors, Solheim selected a sale in Seaside as the most comparable. The property sold for \$53,750 per living unit. (Def's Ex B at B41, Ex C at C12.) He chose that sale because, among other reasons, it is also a legal nonconforming use. From the picture of that sale, that property also appears to have some deferred maintenance issues. (Def's Ex B at B29, Ex C at C24.) After adjustments, primarily due to the property's superior location in Seaside, he selected a sales price of \$48,400 per living unit as the appropriate sales price.

### **ANALYSIS**

In any proceeding before the Magistrate Division, the party seeking affirmative relief bears the burden of proof. ORS 305.427.<sup>4</sup> In these cases, a number of witnesses credibly testified for Plaintiffs. Some witnesses testified to maintenance issues relating to the properties, particularly the Klaskanine properties, and the higher than average expenses associated with the properties. Others testified to the dynamics of the rental market in Astoria. Still others testified to how the market would view and value the properties. Finally, Gail Webb, an Oregon certified general appraiser, testified to his opinions of value of the properties. He valued the properties using NOI, testifying that the method best takes the relevant factors specific to the properties, such as the higher than normal expenses relating to the properties. He used a capitalization rate of 10 percent; he did not provide his reasoning for using the 10 percent capitalization rate. He discounted Defendant's comparable sales; the Astoria sale because it was a private sale and the others because they were not located in Astoria and thus were in a different market.

Plaintiffs submitted a significant amount of evidence. That evidence contained

---

<sup>4</sup>All references to the Oregon Revised Statutes are to 2001.



specifics relating to the properties such as tax statements, pictures of the properties, surveys of the properties, and expense and rent schedules for the properties. Plaintiffs also submitted tax schedules, both personal property returns and income tax schedules. Finally, Plaintiffs submitted a list of duplex sales in the county. The one thing Plaintiffs did not submit was an appraisal or written analysis of value.

Defendant did not provide the same quantity of witnesses. Indeed, Solheim was Defendant's only witness. However, he prepared, submitted into evidence, and testified to his written analysis of value.

Notwithstanding the quality and quantity of Plaintiffs' witnesses and exhibits, the court finds that Plaintiffs have not met their burden of proof. The primary dispute was whether the properties should be valued using the income approach to valuation or the market approach. Although Plaintiffs' witnesses made a strong argument that the income approach to valuation was the correct approach, Solheim made an equally strong argument that the market approach was the correct approach. Even if the court agreed that the income approach was the correct approach, Webb did not explain his basis for using a capitalization rate of 10 percent. Without knowing the basis for the chosen capitalization rate, the court cannot gauge the reliability of Webb's estimate of value. Additionally, although the court accepts that the subject properties have deferred maintenance, many of Defendant's comparable sales also appear to have deferred maintenance. Nor did Plaintiffs explain the basis for their assertion that sales not in Astoria were in a different market. Further, Plaintiffs did not submit either an appraisal or written analysis of value. Plaintiffs' assertions without supporting analysis were not persuasive. The court finds Solheim's written analysis of value, supported by his testimony, simply more persuasive.

## CONCLUSION

For the reasons stated above, the court was not persuaded. Plaintiffs did not meet their burden of proof. Now, therefore,

///

///

IT IS THE DECISION OF THIS COURT that the real market value of the property described as Account 23698 was, as stipulated for tax years 2000-2001 and 2001-02:

	TC-MD 010751B 2000-2001	TC-MD 020879B 2001-02
Land	\$176,000	\$184,800
Improvements	<u>\$307,000</u>	<u>\$325,420</u>
Total RMV	\$483,000	\$510,220

IT IS FURTHER DECIDED that the real market and maximum assessed values of the property described as Account 23698 was as follows for tax years 2000-2001 and 2001-02:

	TC-MD 010752B 2000-2001	TC-MD 020880B 2001-02
Land	\$111,436	\$118,122
Improvements	<u>\$ 84,064</u>	<u>\$ 77,378</u>
Total RMV	\$195,500	\$195,500
Total MAV	\$159,317	\$164,096

IT IS FURTHER DECIDED the real market and maximum assessed values of the

property described as Account 23698 was as follows for tax years 2000-2001 and 2001-02:

<u>Acct</u>	<u>Year/TC-MD</u>		<u>Land</u>	<u>Improve</u>	<u>Total</u>
25355	2000-2001/	RMV	\$ 32,920	\$ 70,180	\$ 103,100
	010747B	MAV			\$ 88,999
	2001-02/	RMV	\$ 34,895	\$ 68,205	\$ 103,100
	020875B	MAV			\$ 91,668
25356	2000-2001/	RMV	\$ 32,920	\$ 70,180	\$ 103,100
	010749B	MAV			\$ 91,674
	2001-02/	RMV	\$ 34,895	\$ 68,205	\$ 103,100
	020876B	MAV			\$ 94,423
25357	2000-2001/	RMV	\$ 32,920	\$ 70,180	\$ 103,100
	010750B	MAV			\$ 91,674
	2001-02/	RMV	\$ 34,895	\$ 68,205	\$ 103,100
	020877B	MAV			\$ 94,423
25358	2000-2001/	RMV	\$ 32,920	\$ 70,180	\$ 103,100
	010748B	MAV			\$ 90,297
	2001-02/	RMV	\$ 34,895	\$ 68,205	\$ 103,100
	020878B	MAV			\$ 93,005

IT IS FURTHER DECIDED that the county shall correct the assessment and tax rolls to reflect the above values. Any refund due following this correction shall be promptly paid with statutory interest.

Dated this \_\_\_\_\_ day of June, 2003.

---

SALLY L. KIMSEY

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 SALLY L. KIMSEY ON JUNE 30, 2003. THE COURT FILED THIS DOCUMENT ON JUNE 30, 2003.**