

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

JOHN D. ANDREWS and LISA A. )  
ANDREWS, )  
 )  
Plaintiffs, ) No. 010813C  
 )  
v. )  
 )  
CLACKAMAS COUNTY ASSESSOR, )  
 )  
Defendant. ) **DECISION**

Plaintiffs have appealed the value of their land for the 2000-01 tax year. The property is identified in the assessor's records as Account No. 00414475. A trial was held by telephone on January 30, 2002. Mr. Andrews appeared on behalf of the Plaintiffs. Defendant appeared through Mr. Fred Dodd, an appraiser with the Clackamas County Assessor's Office.

**STATEMENT OF FACTS**

The property under appeal is a 10,200 square foot lot on which Plaintiffs have built their home. The property overlooks Interstate 205 in West Linn. Plaintiffs purchased the unimproved lot in June 1998 for \$50,500. Plaintiffs hired a contractor to excavate the site, connect the sewer, and construct two retaining walls. The total reported cost for that work is \$4,000. Plaintiffs paid an additional \$1,000 for the water hook-up. Mr. Andrews built the home and did the landscaping. Total cost for the land, including on-site developments, is \$55,500. No professional value estimates or comparable sales data was presented by the Plaintiffs.

Defendant does not contest Plaintiffs' purchase price or on-site development costs. Defendant's representative performed a land value study and submitted a two page written

narrative summary of his conclusions. Because there were no vacant land sales in the immediate area, Mr. Dodd arrived at his land value conclusion through the land residual approach. Mr. Dodd considered seven improved sales in the area of the subject property, six of which occurred in calendar year 1999. He subtracted the tax roll value of the improvement (home) from each reported total sale price to arrive at the estimated residual value for the land. Looking more closely at those sales, Mr. Dodd considered three sales on Plaintiffs' street (Imperial Drive) and found land residuals of \$44,250, \$58,930, and \$49,926, respectively for tax lots 5000, 5100, and 5500.

Mr. Dodd stated he was troubled by these numbers because he felt they were low for the area. This led Mr. Dodd to consider the four additional sales, all within several blocks of the subject. The residual land values for those properties were \$106,620, \$78,920, \$101,860, and \$88,580. Mr. Dodd's report concludes with the following narrative:

“Analysis of nearby sales gives a range of value that does tend to bracket and support the Real Market Value of the subject property. However, land residuals on the same street as the subject property would tend to support a lower Real Market Value. The other land residuals would not support a reduction to \$55,000, which is what plaintiff is requesting.

“It is the recommendation of the county that the 2000-01 Real Market Value be lowered from \$86,180 to \$72,000. This would reflect the lower land residuals on the plaintiff's street.”

Mr. Andrews spoke to differences between the properties on his particular street and those presented by Defendant, and particularly as to the differences between his home and street and Mr. Dodd's reported sale at 4239 River View. The River View property is located immediately behind the subject property on the next street over. Mr. Andrews opined that River View is a more “traditional” neighborhood. It is a nicer street, with trees along the road and slightly better homes. Mr. Andrews insists the view on

River View is “much better.” Mr. Dodd testified he subtracted \$13,500 from the roll value for “view.” Additional factors influencing values on Plaintiffs’ street are multi-tenant structures and freeway noise. The parties agreed that there are several duplexes located on Plaintiffs’ street, including one directly across from Plaintiffs’ home. There are no duplexes on River View. There is also freeway noise which Mr. Andrews testified is less pronounced one street over.

### **COURT'S ANALYSIS**

The issue is 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)<sup>1</sup>. The assessment date for the 2000-01 tax year is January 1, 2000. ORS 308.210(1).

The sale of the subject property, while not conclusive, is highly persuasive evidence of value provided the sale is arm’s-length and occurs reasonably close to the applicable assessment date. See *Ernst Brothers Corp. v. Dept. of Rev.*, 320 Or 294, 300, 882 P2d 591, (1994); *Sabin v. Dept. of Rev.*, 270 Or 422, 426-27, 528 P2d 69, (1974); *Kem v. Dept. of Rev.*, 267 Or 111, 114, 514 P2d 1335 (1973). Moreover, the court in *Ernst* noted that “[i]n the absence of data indicating that ‘the price paid was out of line with other market data material, we believe [a recent sale] to be one of the best and most satisfactory standards for the estimation of actual value although, admittedly, it is not conclusive.’” *Ernst Bros.*, 320 Or at 300 (quoting *Equity Land Res. v. Dept. of Rev.*, 268 Or 410, 415, 521 P2d 324 (1974)).

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<sup>1</sup>All references to the Oregon Revised Statutes are to 1999.  
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Plaintiffs paid \$50,500 in June 1998 for the unimproved lot and then invested \$5,000 for on-site developments, for a total cost of \$55,500. This number is at the high end of Mr. Dodd's residual land values for the three comparable sales on Plaintiffs' street. Those sales occurred in December 1999, October 1999 and May 1998. Mr. Dodd applied a four percent time adjustment to the May 1998 sale. Applying that adjustment to Plaintiffs' \$55,500 adjusted purchase price results in a value indication of \$57,736. The three comparables on Plaintiffs' street had a range of \$44,250 to \$58,930. The court finds this evidence persuasive and is reluctant to rely on sales occurring even several blocks away when there is sufficient market evidence on the subject street to support the adjusted purchase price. In fact, the court finds that Defendant's four outside sales support Mr. Andrews' assertion that the other neighborhoods are superior as reflected in the higher residual land values reported by Mr. Dodd. The court found the testimony of Mr. Andrews particularly credible and persuasive.

On the evidence before it, the court finds that the value of the subject property as of January 1, 2000, was \$60,000. This number is slightly higher than the trended purchase price because the court felt it necessary to capture the additional value added by the landscaping Plaintiffs performed. The court's value determination results in a reduction in excess of 20 percent and therefore, although the Complaint was filed beyond the 30-day appeal period set forth in ORS 305.280(4), the reduction is authorized by ORS 305.288(1).

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## **CONCLUSION**

The court concludes that the real market value for the 2000-01 tax year of the land identified by Clackamas County Assessor's Account No. 00414475, was \$60,000. Accordingly, the appropriate county tax authorities shall reduce the real market value of the land from \$86,180 to \$60,000 pursuant to ORS 305.288(1).

IT IS THE DECISION OF THE COURT that the appropriate county tax authorities shall adjust the assessment and tax rolls in accordance with this Decision.

Dated this \_\_\_\_\_ day of February, 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 FEBRUARY 26, 2002. THE COURT FILED THIS DOCUMENT ON FEBRUARY 26, 2002.**