

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DENNIS JOHN BABER,)	
)	
Plaintiff,)	No. 020215A
)	
v.)	
)	
CURRY COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Dennis John Baber has appealed the assessment, for the 2001-02 tax year, of vacant land identified by Account No. R26692. He appeared and made his arguments. Gary Hill presented the case for Curry County.

STATEMENT OF FACTS

The property at issue is an unimproved lot located in the Shelter Cove subdivision in Port Orford. It is wooded, with an ocean view. It was purchased by Mr. Baber in mid-1997 for \$95,000. It is currently on the roll at an assessed value of \$101,000. Mr. Baber contends that it should instead be assessed at \$76,640.

Mr. Baber's reasoning is based on a building moratorium now in place in Port Orford. Mr. Baber testified that as a result of storm damage to the city sewer system, permits for connection to the waste disposal lines are dramatically limited. Prospective purchasers of ocean-view lots, Mr. Baber reasons, would be more likely to choose properties which might be built upon immediately.

While agreeing that a building moratorium was in place as to Port Orford properties, Curry County disagreed with Mr. Baber as to its effect on value. Three sales were presented by Curry County. These transactions occurred between November of 1999 and April of 2001, and were at unadjusted prices from \$96,000 to \$103,000. One of these sales came from the same subdivision as the subject property. The others,

while not in the same subdivision, are also ocean view lots subject to the moratorium.

Mr. Hill spoke to the purchaser of one of the lots, who verified that he completed the transaction knowing of the waiting period for connecting to a sewer.

As to these transactions, Mr. Baber noted that the sale of the lot within his subdivision included a building permit, and so does not serve as a reliable indicator of the value of lots still under the reach of the moratorium.

COURT'S ANALYSIS

Mr. Baber asked the question, "Who would buy an unbuildable property when you can go down the street and get an unrestricted lot?" The answer may well be that it would be individuals who were so struck by the features of the currently unbuildable property that they would be willing to place their plans to construct a residence on hold for a time, or individuals who do not see the building moratorium a real barrier to placing a residence on the land sooner rather than later.

At any rate, on Mr. Baber's side we have only conjecture that the moratorium has lead to the value of his property falling from his 1997 purchase price of \$95,000 to \$76,640. Other than the bare fact that the moratorium exists and must have some effect, Mr. Baber has presented no proof to support this 20 percent decline. No sales were mentioned. There was no reference to extended marketing periods for affected properties. While the court will agree with Mr. Baber that the building moratorium must have some effect, without substantiating data it could be that the property would have been worth even more than its assigned real market value of \$101,000 were it not for the moratorium.

Turning to Curry County's case, the sales it presented are extremely significant. While the sale of the property in the same subdivision as the subject is not so useful in light of the fact that the transaction included a building permit, the remaining pair of

sales were not impeached. The court is particularly impressed with Mr. Hill's verification of these purchases, especially as to his testimony that he spoke with a buyer who bought a lot comparable to the subject knowing of the moratorium, and paying a price on the order of that assigned to the subject property. While the court understands how Mr. Baber would be surprised by the fact that his property values are increasing at a time when it may not be currently built upon, the conclusion of the court is that the assessed value assigned to his lot is consistent with its real market value, and within the limits imposed by its maximum assessed value.

CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that the appeal is denied.

Dated this _____ day of August, 2002.

SCOT A. SIDERAS
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 SCOT A. SIDERAS ON AUGUST 29, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 29, 2002.