

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

LAWRENCE SPIVACK,)	
)	
Plaintiff,)	No. 020383B
)	
v.)	
)	
LINCOLN COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

A trial was convened on August 8, 2002. Lawrence Spivack participated on his own behalf. Deane M. Perkins represented Defendant.

This is residential property located at 400 East Third Street in Yachats, Oregon. The property's maximum assessed value is set at \$370,270. For the 2001-02 tax year, the property's real market value (RMV) was raised to \$362,660. This was based on the prior year's (2000-2001) RMV of \$312,930 plus the percentage increase (or trending index) based on an area-wide ratio study. At trial, Defendant recommended a reduction to \$358,390 RMV.

Plaintiff contends the increase is unwarranted and seeks a return to that prior RMV of \$311,930. His approach was to offer criticisms of the Defendant's earlier ratio study for this tax year at issue. No independent appraisal evidence or valuation data was offered by the property owner.

Defendant introduced evidence of six sales of comparable properties. They ranged in price from \$255,000 to \$450,000. After adjustments, the value range was from \$352,450 to \$373,985. All necessary adjustments were made and supported by testimony. Even if the earlier ratio study was somehow inherently suspect, this trial exhibit and testimony is supportive of Defendant's RMV estimate. That is, the issue is the RMV of the subject property as of January 1, 2001, and not some perceived, earlier

procedural defect.

In these appeals, a preponderance of the evidence is required to sustain the burden of proof. That burden of proof shall fall upon the party seeking affirmative relief. ORS 305.427.¹ Plaintiff has not met that statutory requirement in this record.

After considering the record, the court concludes that the best evidence is that produced by Defendant. Now, therefore,

IT IS THE DECISION OF THE COURT that the 2001-02 real market value shall be set at \$358,390, with \$73,220 allocated to land and \$150,370 to improvements.

Dated this ____ day of September, 2002.

JEFF MATTSON
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 97310. 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 JEFF MATTSON ON SEPTEMBER 30, 2002. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 30, 2002.

¹ All references to the Oregon Revised Statutes (ORS) are to 1999.
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