

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

KIM J. HERRON and DONNA GOODMAN-HERRON,)	
)	
Plaintiffs,)	TC-MD 030173B
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT

Plaintiffs appeal Defendant's assessment of certain real property for the 2002-03 tax year. The property is identified as Account R186812.

A trial was convened on August 26, 2003. Kim J. Herron and Donna Goodman-Herron participated on their own behalf. Bob Alcantara represented Defendant.

I. STATEMENT OF FACTS

The subject property is the underlying lot supporting a single family residence located at 9914 SW 30th Avenue in Portland. The structure was built in 1970 and has 2,866 square feet of living space. For the 2002-03 tax year under appeal, the existing real market value is \$206,150, with \$82,500 allocated to land and \$123,650 to improvements.

Plaintiffs elected to appeal only the value of the land to this court. At trial, Defendant admitted an overvaluation and recommended a reduction in that land value to \$72,500.

Plaintiffs seek a further reduction in that land value to \$60,000.

Plaintiffs produced evidence of 11 sales of area properties. However, many differences were not taken into consideration. For instance, on some there was no site preparation, landscaping or utilities similar to the subject. Averages were presented, but there was no analysis as to differences and no necessary adjustments were offered.

Plaintiffs claim the sales data averages to \$60,500 per site. That is close to the \$60,000 relief requested in the original Complaint to this court.

Defendant's representative presented information as to three bare lot sales. They occurred in 2000 and 2002 and ranged in price from \$75,400 to \$87,500. No adjustments were offered for any differences. The average was \$75,633. That is close to Defendant's recommended \$72,500 at trial.

A major factor influencing value on the January 1, 2002, assessment date was the effect of utility failures. On six separate occasions the front yard was dug up. There are recurrent sinking and settling difficulties. As to this point, Plaintiffs produced some objective, documentary evidence. An estimate to repair the lot for the settling and topography problems was submitted. It estimated a base cost of \$8,200 with an additional \$1,500 allowance for "home owner responsibilities." This totals \$9,700 as to costs to cure the situation. When subtracted from the existing land value, a residual of \$72,800 is derived.

II. ANALYSIS

The issue presented is the real market value of the subject land only as of January 1, 2002.

Neither party presented appraisal information. Instead some property sales prices were produced and averages were computed. No adjustments were specifically made as to differences.

When viewed from the most persuasive evidence presented, the range between the parties is slight. Plaintiffs' bid to cure the settling condition is very close to Defendant's offer to settle presented during the trial. After a full evaluation, the court determines that the current land value shall be reduced by \$10,000 for the 2002-03 tax

year.

III. CONCLUSION

In appeals before the Magistrate Division, 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. Now, therefore,

IT IS ADJUDGED AND DECREED that the total real market value for the 2002-03 tax year shall be reduced from \$206,150 to \$196,150 with \$72,500 allocated to land and \$123,650 to improvements.

Dated this _____ day of November, 2003.

JEFF MATTSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON NOVEMBER 14, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 14, 2003.