

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JEFF KING and SUSAN E. KING,)
)
 Plaintiffs,) TC-MD 030179C
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiffs have timely appealed the value of their land for the 2002-03 tax year. Trial was held by telephone December 1, 2003. Plaintiffs appeared on their own behalf. Defendant was represented by Chris Crean, Assistant County Counsel. Bob Alcantara, Appraisal Supervisor at the Multnomah County Division of Assessment and Taxation, testified for Defendant.

I. STATEMENT OF FACTS

The subject property is a 21,000 square-foot, gently sloping parcel in Portland, consisting of three tax lots. Each of the three tax lots is buildable. Plaintiffs' home straddles two of the tax lots and an additional building sits on the third lot. The parcel and the buildings are carried on the tax rolls as one account and are identified as Account No R259027. The land has a real market value (RMV) on the tax rolls, for the 2002-03 tax year, of \$141,400. Plaintiffs have requested that the value be reduced to \$113,373.

Plaintiffs submitted a statutory warranty deed for the property across the street from their property, evidencing the sale of that parcel for \$220,000. The deed was recorded October 11, 2001, and the court assumes the sale occurred shortly before that date. For ease of reference, the court will refer to that property as Plaintiffs' comparable sale or "the" comparable sale. Defendant did not submit any documentary evidence.

Susan King testified that the comparable sale has the same topography as their property. According to the evidence, the comparable sale involved a 42,367 square-foot parcel that was subdivided into four separate lots after the sale. Three of the four newly-created lots are approximately 7,000 square feet and the fourth lot is roughly 21,000 square feet.

II. ANALYSIS

The issue in this case is the RMV of the subject property. The statutory definition of RMV is "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 The assessment date for the 2002-03 tax year was January 1, 2002.

ORS 308.007 and ORS 308.210. Plaintiffs, as the party seeking affirmative relief, bear the burden of proof, which is sustained by a "preponderance" of the evidence.

ORS 305.427. "Preponderance of the evidence means the greater weight of evidence, the more convincing evidence." *Feves v. Dept. of Revenue*, 4 OTR 302, 312 (1971), citing *McPherson v. Cochran*, 243 Or 399, 404, 414 P2d 321 (1966).

Plaintiffs insist that the comparable sale supports their opinion of value. The court disagrees for several reasons. First, when that property sold it consisted of one buildable lot, whereas Plaintiffs have three buildable lots. A buildable lot carries a premium value. Second, Plaintiffs assume that a per-lot value can be extracted from the comparable sale by dividing the sale price by the number of lots created after the sale; Plaintiffs divide the \$220,000 sale price by four to arrive at a value per "lot" of \$55,000. That approach is flawed for several reasons. To begin with, the comparable sale did not involve four lots,

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.
DECISION TC-MD 030179C

but rather only one, and it is considerably larger than any of Plaintiffs' three lots (42,367 square feet versus 7,000 square feet). And, if the four newly-created lots are put on the market, the sum of the four individual sale prices will no doubt exceed the amount paid for the original lot because of the premium attached to a buildable lot. Moreover, the four lots are not the same size; one of the four is approximately three times the size of the other three. The more relevant information would be the sale price of one or more of the four new lots, three of which are roughly the same size as Plaintiffs' three lots. Even a listing would provide some insight into what the seller believed the lots were worth. In that regard, the court was not presented with any information as to what occurred after the subdivision (*i.e.*, whether the lots were placed on the market and, if so, what the lots were listed for, whether any sold, and, for how much).

A third problem is that Plaintiffs have overlooked the added value attributable to the onsite developments on their parcel (well, septic, electricity, driveway, etc.). Those attributes are included in the land value for tax purposes. OAR 150-307.010(2)(a)(A)(ii). Thus, even if the court was persuaded Plaintiffs accurately gauged the value of a bare lot, an adjustment for onsite developments is necessary.

The fourth problem with Plaintiffs' theory is that they own three lots but believe they should be valued for tax purposes as though they owned only two lots. They multiply their \$55,000 lot value by two to arrive at an estimate of \$110,000, which is close to the value Plaintiffs have requested (\$113,373). Plaintiffs have arrived at that conclusion because of a note in Defendant's appraisal records which shows Plaintiffs only own two lots. However, Plaintiffs acknowledge that they own three buildable lots and they should be valued and taxed accordingly. Using Plaintiffs' own numbers suggest a value of at least \$165,000 (\$55,000 x 3, plus onsites). Moreover, additional information in Defendant's

records shows that Plaintiffs own three lots; lots 8, 9, and 10 in the platted subdivision. Therefore, the records are inconsistent, but do contain the correct information as to the number of lots. The court understands Plaintiffs' concern with finding inaccurate information in Defendant's appraisal records but for purposes of their value appeal to the Tax Court, the question is whether the RMV on the roll is correct and, if not, whether Plaintiffs have demonstrated that the value should be reduced. On the evidence before it, the court is not persuaded that there is in error in the roll.

III. CONCLUSION

Plaintiffs have not sustained their burden of proof by demonstrating an error in the record assessment by a preponderance of the evidence. Accordingly, their request for a reduction in the RMV is denied. Now, therefore,

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

Dated this _____ day of December, 2003.

DAN ROBINSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. 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 DECEMBER 9, 2003. THE COURT FILED THIS DOCUMENT ON DECEMBER 9, 2003.