

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

DEBRA LYNN MARTENS	)	
and MARK A. LARSON,	)	
	)	
Plaintiffs,	)	TC-MD 040055B
	)	
v.	)	
	)	
CLACKAMAS COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs appeal the 2003-04 real market value (RMV) of certain residential property identified as Account 01704249.

A trial was held August 5, 2004. Debra Lynn Martens testified for Plaintiffs. Fred Dodd, county appraiser, represented Defendant.

I. STATEMENT OF FACTS

The subject property is a Redman Ranchero manufactured structure that was built in 1996. It measures 27 feet by 52 feet. Defendant's representative inspected the condition of the home and rated it to be slightly below average. Plaintiffs disagree with that rating and cite problems with the carpets, warped trim, missing caulking, untamed vinyl flooring, and ceiling cracks in multiple areas.

Plaintiffs offered a written value opinion by a third-party estimator, Eric Fredricks (Fredricks). He reached conclusions for the purposes of Plaintiffs' earlier bankruptcy proceeding. His opinion was rooted in a used cost estimate with various items deducted for defects. Both wholesale and retail costs were approximated. No sales were offered; no support was provided. ///

///

The bankruptcy court issued a stipulated order amending the loan on the home to a balance of \$25,657.49 plus interest. The overall retail value of the manufactured home was estimated at \$22,551.

Defendant's appraiser isolated three sales of similar properties from county records. He did not view the properties. The transactions occurred in 2002 and ranged in price from \$34,985 to \$45,000. From that, he concluded a value for the subject property of \$30,540.

As to the competing values, the current RMV for the 2003-04 tax year is \$32,540. Defendant admits an over-valuation and recommends a \$2,000 reduction. Based on cost information provided by Fredricks, Plaintiffs believe that the RMV should be \$22,551.

## II. ANALYSIS

The difference in values urged by the parties is slight. In appeals such as this, a preponderance of the evidence is required to sustain the burden of proof. "The burden of proof shall fall upon the party seeking affirmative relief." ORS 305.427.<sup>1</sup> Plaintiffs have not met that statutory requirement as to the total relief sought at trial.

After weighing the evidence, the court concludes that Defendant's sales evidence is superior. Market sales are preferable to book-related cost estimates, especially when the latter's author (Fredricks) did not participate at trial. However, Plaintiff Martens' testimony as to condition on the assessment date was clear and convincing. The court finds that the actual physical condition was more negative than that determined by Defendant. Therefore, an additional \$2,000 deduction for condition is warranted in this record. Deducting that amount from Defendant's recommendation of \$30,540 yields an indicated RMV of \$28,540.

///

---

<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.  
DECISION TC-MD 040055B

### III. CONCLUSION

Plaintiffs are entitled to some relief as set forth above.

NOW, THEREFORE, IT IS THE DECISION OF THIS COURT that the 2003-04 RMV shall be set at \$28,540. Any refunds due shall be paid by Defendant with statutory interest thereon.

Dated this \_\_\_\_\_ day of August 2004.

---

JEFF MATTSON  
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 JEFF MATTSON AUGUST 30, 2004. THE COURT FILED THIS DOCUMENT AUGUST 30, 2004.**