

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

THELMA C MAGNO,)
)
 Plaintiff,) TC-MD 040176B
)
 v.)
)
 WASHINGTON COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

This appeal concerns the tax year 2003-04¹ real market value (RMV) of certain residential property, more fully described below. It is identified as Account R1022477.

A trial was held December 1, 2004. Thelma C. Magno participated on her own behalf; also providing information was her associate, Bruce Deschner. Participating for Defendant were appraisers Barbara Miller (Miller) and Joe Nelson.

I. STATEMENT OF FACTS

The subject property is a large single-family residence located at 7660 SW Northvale Way in Portland. The land size is nearly 17,000 square feet. The improvements total 8,182 square feet with 5 bedrooms and 4.5 baths. Substantial yard improvements were present on the assessment date. For the 2003-04 tax year, Defendant originally valued the property at \$1,224,710 RMV. Upon review, that total was reduced to \$933,000 by the Washington County board of property tax appeals (BOPTA). Plaintiff has now appealed to this court and seeks a reduction (as amended at trial) to \$710,000.

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¹ The tax year at issue was amended during the case management conference on July 1, 2004.
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Plaintiff cited her acquisition of the home for \$452,500 (June 26, 2000) and the subsequent substantial remodel efforts.² Defendant's RMV for that earlier time period was nearly identical at \$450,000. Plaintiff's chief evidence at trial consisted of an appraisal report completed at her request. That document concluded an indicated value of \$710,000 as of July 28, 2004. The author, Brenda K. Keller (Keller), did not testify at trial.

Defendant produced a comprehensive appraisal report prepared by Miller; she did testify in detail and answered questions at trial. She included pertinent information regarding three sales of comparable properties. They occurred in 2002 and 2003 at prices ranging from \$867,500 to \$1.1 million. After adjustments for property differences, the indicated range was from \$1,230,140 to \$1,308,360. From that market data approach, Miller concluded \$1,280,000 RMV for the subject as of January 1, 2003. That was offered in support of the current \$933,000 BOPTA amount for 2003-04. (Def's Exh A, at 1.)

II. ANALYSIS

A critical undisputed point stands out in this appeal. Plaintiff's appraiser did not participate at trial. She was not available to explain the details of her many and substantial appraisal conclusions. For instance, no specific supporting information was shown as to large adjustments to the examined sales. Plaintiff's analysis of sale five had gross adjustments that total \$139,000; they were made for condition, size, and garage. No explanation was provided. Another (sale four) had gross adjustments of over \$100,000; that was substantial on a base sales price of \$655,000.

Defendant's appraiser testified in detail as to all necessary adjustments, their reasons, support and conclusions. Most importantly, she completely rebutted any weight perhaps due

² Defendant terms it a "complete ground up renovation that changed the character and effective age of the improvements." (Def's Exh A at 3)

Plaintiff's appraisal report. Miller contended Keller did not select truly comparable sales and relied on an inferior neighborhood. She also took issue with Keller's adjustments for class, quality, yard improvements, and dollars per square foot. After Miller made what she termed "more appropriate and correct" adjustments, the value range exceeded the BOPTA level for the subject property. The court places major reliance on Miller's conclusions.

The court is satisfied that the current BOPTA value approximates the correct RMV for the 2003-04 tax year. In these appeals, 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 305.427.³ Plaintiff has not met that requirement.

III. CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that the 2003-04 RMV shall remain undisturbed; the appeal is denied.

Dated this _____ day of February 2005.

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 FEBRUARY 4, 2005. THE COURT FILED AND ENTERED THIS DOCUMENT FEBRUARY 4, 2005.

³ All references to the Oregon Revised Statutes (ORS) are to 2001.
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