

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

LANE COUNTY ASSESSOR,	)	
	)	
Plaintiff,	)	TC-MD 040376B (Control);
	)	
v.	)	
	)	
SANJACRON, LLC,	)	
	)	
Defendant.	)	
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	)	
SANJACRON LLC,	)	
	)	
Plaintiff,	)	TC-MD 040415B
	)	
v.	)	
	)	
LANE COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

These appeals concern the 2003-04 real market value (RMV) of certain office property, identified as Account 1404787, and more fully described below.

A trial was held on January 20, 2005. Bill Weeks, county appraiser, appeared for Plaintiff-County (County). David E. Carmichael, attorney at law, represented Defendant-Taxpayer (Taxpayer). Three witnesses testified for Taxpayer. Subsequently, written arguments were submitted. The record closed on March 2, 2005.

**I. STATEMENT OF FACTS**

The subject property is located at 43 West Broadway in downtown Eugene, Oregon. For the 2003-04 tax year, County initially valued the property at \$803,090 RMV, with \$206,980 allocated to land and \$596,110 to improvements. Upon appeal to the Lane County Board of Property Tax Appeals (BOPTA), the total was reduced to \$557,378. Both parties were

dissatisfied with that BOPTA order. County then appealed to this court on April 6, 2004, seeking an increase in the total to \$803,090.<sup>1</sup> Subsequently, Taxpayer filed its Complaint on April 8, 2005, seeking a further reduction in the total to \$430,000 RMV.

The subject property is a two-story office building located near the core of Eugene. It was constructed in 1923 and was refurbished in 1967 and 1975. There is a basement of nearly 11,000 square feet that is used for storage only. As of the January 1, 2003, assessment date, a fast food restaurant was located on the first floor. (County's Ex 1 at 4.)

The area zoning is C-3, which allows major commercial activities. The land size totals 11,010 square feet. Erected thereon is a structure of about 31,340 square feet. Individual space is leased to separate and disparate tenants. (*Id.* at 2.)

County presented sales of seven properties allegedly comparable to the subject property. Taxpayer took exception to many of the transactions as to similarity and as to terms of sale. Those sales ranged from \$14.67 per square foot to \$74.10 per square foot. (*Id.* at 6.) For its sales approach analysis, County used \$50.00. (*Id.* at 8).

As to lease comparables, County presented ten separate properties. However, a Taxpayer witness<sup>2</sup> testified all County's comparables were "significantly superior as to quality, type and desirability." County's survey of rent-per-square-foot ranged from \$.85 to \$1.35. For its income approach analysis, County used \$1.00 per square foot for the office areas and \$.30 for the basement. That yielded an effective gross income of \$152,957. County concluded a combined capitalization rate of 9.5 percent. After allowing for operating expenses at 41 percent, County concluded a total indicated value of \$949,942. (*Id.* at 10.)

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<sup>1</sup> At trial, a conclusion of \$1 million was advanced by County.

<sup>2</sup> Sue Prichard, real estate broker.

Taxpayer's approach focused more heavily on historical figures and activities at the subject property. Stabilized income and expense history was presented for the seven years 1998 through 2004. The rent roll analysis revealed real rental rates far below those estimated by County. Those actual rates ranged from about \$.12 per square foot to a high of about \$.73 for the office areas. The storage rental was at \$.30 per square foot - the same level used by County.

Taxpayer's income approach estimated \$100,771 in effective gross income. Using an actual expense ratio of 58 percent and a capitalization rate of .10, the approach yielded a total RMV of \$422,340, based on reported historical amounts.

Taxpayer offered the detailed testimony of several witnesses. All were unanimous as to the impossibility of obtaining \$1.00 per square foot rent near the assessment date. The professional, experienced property managers, investors and brokers were of the same mind. Examples were provided and competing properties were cited. The property was described as a unique building that was not structurally sound and poorly designed for multi-tenant office use. One witness classified it as "dysfunctional."

## II. ANALYSIS

Taxpayer's witnesses were convincing as to the problems suffered by the subject property. They were especially persuasive as to the actual rentals received compared with those estimated by County. It is improbable that such experienced real estate professionals would fail to take necessary actions that would garner them substantially more annual gross income. That does not seem feasible, given the facts in this record.

There is no major disagreement as to the capitalization rate. It contributes less than \$25,000 to the valuation dispute. Based on Taxpayer's description of obsolescence conditions and the risk involved with the site, the court accepts a rate of 10 percent for the 2003-04 tax year.

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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.<sup>3</sup> County has not met that statutory requirement in this record as to the relief sought at trial. When the evidence is viewed and weighed closely, Taxpayer must prevail in these appeals. The best evidence is that offered on behalf of Sanjacron LLC.

As to the appropriate allocation of the total, County's initial land valuation has been one of the few constants in this case. It was not changed by BOPTA nor seriously addressed at trial. Thus, it seems appropriate that any reduction in the total shall come from the improvements. The land value of \$206,980 shall remain undisturbed.

### III. CONCLUSION

NOW, THEREFORE, IT IS THE DECISION OF THIS COURT that the 2003-04 RMV shall be set at a total of \$430,000, with \$206,980 to land and \$223,020 to improvements.

Dated this \_\_\_\_\_ day of August 2005.

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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 17, 2005. The Court filed and entered this document August 17, 2005.***

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<sup>3</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.