

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

BEAL LLC)	
(Margaret S. VanLaere)	
and Michael J. VanLaere),)	
)	
Plaintiff,)	TC-MD 050360A
)	
v.)	
)	
BENTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

At issue is the assessment of property, identified as Account 170781, for the 2004-05 tax year. Michael Van Laere appeared for Plaintiff. Richard Newkirk presented Defendant's case.

I. STATEMENT OF FACTS

The disputed property is located at 1229 Main Street in Philomath. It is on the tax roll at a real market value of \$222,058, with \$128,058 on the land and \$94,000 on the improvements. Its assessed value is \$219,119.

Plaintiff reasons that its real market and assessed values should be reduced to \$125,000. That was the price at which the property sold, in an Internal Revenue Code (IRC) section 1031 exchange in November 2004, following its exposure to the market for 131 days. Plaintiff argued the land values set by Defendant are too high, and went on to present four additional sales and two listings of properties which, like the subject, border Main Street. The properties sold between October 2001 and April 2005 at prices between \$98,500 and \$215,000. After removing the value of the structures, Plaintiff arrived at a value for the land that ranged from a negative \$5.02 to \$13.75 per square foot. A similar treatment as to the listings resulted in a range from \$5.65 to \$11.96 per square foot.

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For its part, Defendant presented seven sales¹, six of which were, like the subject, on Main Street. Those sales occurred between May 2001 and August 2004 at unadjusted prices from \$81,500 to \$320,000. After adjusting for time, building size, age, land to building ratio, quality, off-street parking, condition, and location, Defendant arrived at an adjusted value per square foot from \$17.73 to \$76.99. Selecting \$57.39 as the best indicator, Defendant arrived at a value for the property of \$223,000.

Plaintiff's rebuttal defended the sale of the subject property, noting the exposure to the market had been extensive and the transaction was at arm's length. Plaintiff asserted that errors existed in Defendant's land extraction analysis by neighborhood, and when those are corrected, an indicated value for the land of \$12.21, rather than Defendant's conclusion of \$13.87, results. Plaintiff also commented that a sale used in Defendant's analysis, at 1301 Main, should be deleted because its area was outside the range of the other comparables.

For its part, Defendant testified that one of the transactions relied upon by Plaintiff, at 706 West Main, was a house rather than conventional office space. Another, at 1313 Main, was identified as a deed of reconveyance between mortgage companies. A third, at 1233 Main Street, was said to be between related parties.

II. ANALYSIS

A sale of the subject property can be a strong, perhaps even the best indicator of value. *See Kem v. Dept. of Rev.* 267 Or 111, 114, 514 P2d 1335 (1973). The fact that the transaction occurred in the context of a Section 1031 exchange is not fatal. However, it does lead the court to look to other evidence which confirms, or disputes, the sale price as an indicator of value. *See Talarico v. Deschutes Cty. Assessor*, 17 OTR 37, 43 (2001).

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¹ An eighth sale, at 815 Applegate, was withdrawn from Defendant's analysis.

When that other evidence is evaluated, the court is of the opinion that Defendant's analysis carries the day. It is difficult to find sales that are identical to the subject property. However, Defendant's final presentation of seven sales come closer than Plaintiff's transactions. Looking to Defendant's sales, conservative values are indicated by the transactions where the land and buildings are somewhat smaller than the subject, the age of the improvements older, the land to building ratios are close, and construction quality is somewhat inferior to the subject. Those indicators support the assessed value of the subject. Plaintiff's comparables, by comparison, do not carry such confidence.

III. CONCLUSION

Defendant's case is the more persuasive. Now, therefore,

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

Dated this _____ day of December 2005.

SCOT A. SIDERAS
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 Scot A. Sideras on December 19, 2005 . The Court filed and entered this document on December 19, 2005.