

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

GOLFSIDE INVESTMENTS, LLC,)	
)	
Plaintiff,)	TC-MD 050431B
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

A trial was held October 25, 2005. Walter Musa, Jr. participated for Plaintiffs. Don Lutz and Lane Thomas represented Defendant.

I. PRELIMINARY MATTERS

An initial case management conference was held with the parties on May 25, 2005. At that time discussion centered on the many problems inherent with Plaintiff's claim as to the nonuniformity of area assessments. The parties were granted time to confer and exchange information.

A second status call was held with the parties on August 2, 2005. Because it was reported that settlement talks were at impasse, a trial date was confirmed by all and set for October 25, 2005, at 9:00 am. Written notice for the trial followed on August 3, 2005. During the August 2 conference call, the magistrate emphasized court rules pertaining to rescheduling requests and the exchange of trial information.

On October 6, 2005, in a timely fashion, Defendant's chief exhibit packet was filed with the court. A copy was provided to Plaintiff.

On October 21, 2005, Plaintiff filed a Motion for Continuance of Trial Date. Defendant opposed the motion and urged the trial be held as scheduled. Pursuant to TC-MD Rule 12(B),¹

¹ Tax Court Rule-Magistrate Division.

Plaintiff's motion was denied. On October 24, 2005, the parties were notified by telephone that the trial would proceed. This Decision hereby expressly restates that Plaintiff's motion was denied.

On October 21, 2005, Plaintiff submitted some written information. At trial, Defendant objected to its admission. As it did not meet the time frame set forth in TC-MD Rule 10, the magistrate at trial orally granted the motion to exclude. This Decision hereby expressly restates that Defendant's motion was granted.

II. STATEMENT OF FACTS

The subject property² is a platted subdivision located in Deschutes County. Each homesite sits on a city lot.

Defendant presented evidence as to the property's history. In prior years, it had been valued as rural acreage. Currently, the land is valued as separate subdivision parcels. The highest and best use of those parcels is for single family residential lots.

Plaintiff disagrees with that basic appraisal premise. Its representative testified that the aggregate acreage should be valued as a single, unified mobile home park. Plaintiff also resurrected earlier comments about alleged disparities in area property tax assessments. No probative evidence was accepted.

Defendant presented substantial market evidence. Vacant land sales were documented and analyzed. An income approach to value was also examined. Both approaches concluded and supported average lot values consistent with the tax record assessment.

III. ISSUE PRESENTED

Has Plaintiff demonstrated errors in the 2004-05 real market value of the subject property?

² There are 98 individual accounts set forth in the Complaint filed April 7, 2005.

IV. ANALYSIS

Plaintiffs' presentation was minimal. It consisted primarily of attacks on Defendant's witness and its records. No independent market valuation evidence was presented for the court's consideration. Nothing logical or market-based was related to Plaintiffs' asserted values.

ORS 446.003(32)³ defines a mobile home park. That term expressly excludes a subdivision such as the subject property. Therefore, Plaintiff's underlying appraisal assumption is flawed and fatal to its claim.

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. *See* ORS 305.427. Plaintiff has not met that statutory requirement in this record.

V. CONCLUSION

IT IS THE DECISION OF THE COURT that the appeal is denied.

Dated this _____ day of March 2006.

JEFFREY S. 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 Jeffrey S. Mattson March 28, 2006. The Court filed and entered this document March 28, 2006.

³All references to the Oregon Revised Statutes (ORS) are to 2003.