

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

WILLIAM HUFFMAN)	
and EVELENE HUFFMAN,)	
)	
Plaintiffs,)	TC-MD 050545C
)	
v.)	
)	
KLAMATH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION and JUDGMENT

Plaintiffs appeal the real market value (RMV) of their land for the 2004-05 tax year. Trial was held by telephone September 20, 2005. William Huffman (Huffman) appeared for Plaintiffs. Donald Ringgold (Ringgold), Chief Appraiser, Klamath County Assessor, appeared for Defendant.

I. STATEMENT OF FACTS

The appeal involves three properties in Klamath Falls, representing improved parcels at 513 Washington Street and 521 Washington Street and an unimproved parcel adjacent to the home on 521 Washington Street. The properties are identified in the assessor's records as Accounts R412262 (513 Washington Street), R412244 (521 Washington Street), and R412235 (vacant lot contiguous with 521 Washington Street). The terrain is sloped and the lots are terraced. Access to the properties is from 5th Street onto Washington Street. Washington Street rises sharply from 5th Street; it is difficult for some cars, and most vehicles towing a trailer, to navigate. The homes on the two improved parcels were built in 1924.

Plaintiffs appealed the land values for the 2003-04 tax year to the county board of property tax appeals (board). After that appeal was filed, one of Defendant's appraisers visited

the properties for value review, and determined that slight reductions were in order. Those reductions were made by Defendant prior to December 31, 2003, and were subsequently sustained by the board in February or March 2004. The following year (2004-05) Defendant significantly increased Plaintiffs' land RMV. The land RMV for the property associated with Account R412262 increased from \$5,130 to \$17,200; Account R412244 increased from \$5,130 to \$16,100; and Account R412235 increased from \$2,280 to \$4,050.

Huffman argues that there is no evidence to support the RMV increases for the 2004-05 tax year and that the best evidence of value is the 2003-04 tax year "appraisal" by one of Defendant's appraisers in connection with Plaintiffs' board appeal that year.

II. ANALYSIS

The issue in this case is RMV, which is defined by statute as "the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as of the assessment date for the tax year." ORS 308.205(1).¹ The applicable assessment date is January 1, 2004.²

Plaintiffs have the burden of proof and must establish their case by a "preponderance" of the evidence. *See* ORS 305.427. A "[p]reponderance of the evidence means the greater weight of evidence, the more convincing evidence." *Feves v. Dept. of Revenue*, 4 OTR 302, 312 (1971). "[I]f the evidence is inconclusive or unpersuasive, the taxpayer will have failed to meet his burden of proof." *Reed v. Dept. of Rev.*, 310 Or 260, 265, 798 P2d 235 (1990).

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¹ All references to the Oregon Revised Statutes (ORS) are to 2003.

² *See* ORS 308.210 (1) (providing that the assessor values property as of January 1 of the assessment year) and ORS 308.007 (defining assessment year as a calendar year, and providing that "[t]he assessment year beginning January 1 corresponds to the tax year beginning July 1 of the same calendar year.")

Plaintiffs did not present any evidence bearing on the likely selling price of the land. Instead, Plaintiffs attempted to shift the burden to Defendant to substantiate its RMV increase in tax year 2004-05 over the prior year. Huffman presented information on other properties with lower tax roll values, one of which decreased in the 2004-05 tax year from the previous year. That fact, according to Huffman, tends to call into question whether Defendant should have increased the RMV of Plaintiffs' properties. There are several problems with that theory. First, tax roll values in the assessor's records are not market value transactions. Second, the lower values on the tax rolls for other properties may be incorrect and Plaintiffs' values correct. Third, as noted earlier, the issue is not whether the increase is appropriate, but whether the final values on the tax rolls accurately reflect RMV. If lots the size of Plaintiffs' properties would sell for the values on the tax rolls, then either the increases were correct, or the prior year's values were incorrect. In any event, the increase is irrelevant. What matters is the final number, not how Defendant reached that number.

Two of the three lots under appeal have on-site developments including water, septic (or sewer), electricity, site preparation, and driveways. The value of those improvements, which typically cost at least several thousand dollars and can amount to \$10,000 or more, is added to the raw land RMV for property tax purposes.³ Plaintiffs' two developed lots have RMVs of only \$17,200 (Account R412262) and \$16,100 (Account R412244), including the on-sites. Defendant initially determined those lots to have RMVs of \$20,200 and \$19,100, respectively. However, after one of Defendant's appraisers visited the properties in connection with Plaintiffs' 2004-05

³ See ORS 307.010(1)(a) (providing that "land" for assessment purposes "includes any site development" and defining site development as "fill, grading, leveling, underground utilities, * * * and any other elements identified by rule of the Department of Revenue") and OAR 150-307.010(1)(2) (2003) (providing that improved land constitutes a "site" and defining site developments to include water, septic, utilities, retaining walls, and landscaping).

tax year appeal, Defendant recommended to the board reductions of \$3,000 for each lot. The board accepted Defendant's recommendation. Plaintiffs' third lot carries a nominal RMV of \$4,050. Plaintiffs have not shown those values to be incorrect.

III. CONCLUSION

Plaintiffs have not established an error in the record assessment for the subject properties. Accordingly, the real market values set by the board are sustained. Now, therefore,

IT IS ADJUDGED that Plaintiffs' appeal is denied.

Dated this ____ day of October 2005.

DAN ROBINSON
MAGISTRATE

This document is final and may not be appealed. ORS 305.514.

This document was signed by Magistrate Dan Robinson October 21, 2005. The Court filed this document October 21, 2005.