

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JOHN SULLIVAN)	
and SARAH THURSTON,)	
)	
Plaintiffs,)	TC-MD 060240B
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs appeal the real market value of exception for tax year 2005-06. A telephone trial was held on Monday, January 29, 2007. John Sullivan (Sullivan) appeared on behalf of Plaintiffs. Mike Chamberlain (Chamberlain), appraiser, appeared on behalf of Defendant.

I. STATEMENT OF FACTS

Plaintiffs purchased the subject property identified as Account R188922 on June 13, 2003, paying \$395,000. The subject property, which was listed for \$419,900, was built in 1916. (*See* Def’s Ex, 2002 Listing.) Sullivan testified that, at the time Plaintiffs purchased the property, it was not well maintained. During the next three and one-half years, Sullivan testified that he and his wife replaced the “water-stained” kitchen cabinets, “drafty” wood windows, “out-of-code” plumbing, and upgraded the electrical service that was a “potential fire hazard.” He testified that the cost of replacing the 1916 cabinets was approximately \$4,500 and that all other items added approximately \$16,733 of market value to the subject property. (*See* Ptf’s City of Portland project list.) Sullivan testified that the work he did to the subject property over several months, extended its useful life. He stated that the permit he filed with the county is not closed and there has been no final inspection. Sullivan disputes Defendant’s

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determination that the real market value of exception for tax year 2005-06 is \$45,250.

(See Multnomah County Board of Property Tax Appeals Real Property Order, dated February 23, 2006.) He concluded that no real market value of exception should be added to the tax roll because all “scope” of the work he performed on the subject property “falls under repair and maintenance.”

Sullivan reviewed his spreadsheet entitled “Comparison Analysis of All Properties in Neighborhood 172.” (Ptf’s Ex 3.) He concluded that the county’s determination of the real market value of his property, which is classified as 4N, would be the “highest real market value” and “highest assessed value” of all houses in neighborhood 172. He questioned how larger properties, which are in better condition, can have lower values than his property.

Chamberlain testified that he inspected the subject property in November 2005. At that time, he concluded that the subject property was in “overall good condition.” He noted that compared to the county’s previous property record, the subject property now had two and one-half baths, new or newer electrical service, brick pavers on the walkways and patio, and most of the windows were “the newer energy efficient type.” Chamberlain testified that the kitchen had been “remodeled” because his notes stated that the cabinets which were “oak or cherry” were above average in quality, tile was on the counter tops, lighting was recessed, appliances were stainless steel, and the floor was hardwood. Sullivan testified that the flooring was the original hardwood and that the subject property had two and one-half bathrooms when he purchased it in 2003. When Chamberlain was asked if he knew when the additional bathroom had been added or when the kitchen had been remodeled, Chamberlain testified that he “had no idea.” He testified that the county could have considered those improvements as “omissions” and “gone back five years,” but the county decided to only “pick up one year” by using the “exception” method.

Chamberlain testified that, in his opinion, all the things he observed were “way beyond maintenance” and added “value to the property.” He concluded that “an exception event occurred.” Using the county’s computer program and inputting the “additional bathroom,” “condition rating” and “quality adjustment,” he calculated a new real market value. The new value was compared to the old value, less appreciation, to determine the “final valuation as remodeled.” Chamberlain concluded that, based on his experience as a contractor, the real market value of exception in the amount of \$45,250 is “more than reasonable.” He asked that the “roll values be sustained.”

II. ANALYSIS

Plaintiffs appeal Defendant’s determination of the real market value of additions or improvements to their property. Plaintiffs’ appeal begins with their observation that the maximum assessed value of their property for tax year 2005-06 was more than “103 percent of the property’s assessed value from the prior year or 100 percent of the property’s maximum assessed value from the prior year, whichever is greater.” ORS 308.146(1).¹

Defendant explained that because “new improvements” were made to the subject property,² the increase in Plaintiffs’ maximum assessed value in excess of that mandated by ORS 308.146(1) was “determined as provided in ORS 308.149 to 308.166.” Defendant identified the addition of a bathroom and kitchen remodel as the most significant “new improvements.” ORS 308.146(3)(a). Unfortunately, the evidence did not support Defendant’s conclusion that the bathroom and kitchen remodel were “new improvements” that can be added to the 2005-06 tax roll. Plaintiffs testified and the evidence, a 2002 listing for the sale of the

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

² ORS 308.146(3)(a)

subject property, showed that the subject property had two and one-half bathrooms when Plaintiffs purchased the property in June 2003. Sullivan testified that the kitchen remodel and other changes made to the property occurred over a number of years and were “[g]eneral ongoing maintenance and repair; or [m]inor construction” below the statutory threshold.³

ORS 308.149(5)(b)(A) and (B). Defendant did not separate the real market value of the kitchen remodel from the total amount added to the tax roll. Having concluded that the bathroom does not qualify as a new improvement for the 2005-06 tax year, the court received no evidence to support a conclusion that other new improvements, if any, meet the statutory thresholds.

III. CONCLUSION

After careful consideration of the testimony and evidence, and review of the applicable law, the court concludes that the real market value of exception added to the 2005-06 tax roll for the subject property failed to meet the statutory requirements of “new improvements.” Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs’ appeal is granted and the real market value of exception in the amount of \$45,250 shall be removed for tax year 2005-06.

Dated this _____ day of March 2007.

JILL A. TANNER
PRESIDING 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.

³ “ ‘Minor construction’ means additions of real property improvements, the real market value of which does not exceed \$10,000 in any assessment year or \$25,000 for cumulative additions made over five assessment years.” ORS 308.149(6).

This document was signed by Presiding Magistrate Jill A. Tanner on March 22, 2007. The Court filed and entered this document on March 22, 2007.