

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

DARYL DODGE and SHARON J. DODGE,	)	
	)	
Plaintiffs,	)	TC-MD 060294E
	)	
v.	)	
	)	
MARION COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs appeal the 2005-06 real market value (RMV) and assessed value (AV) of their home for the 2005-06 tax year. At the conclusion of the case management conference held June 27, 2006, the parties agreed to submit the case to the court for resolution. The case is ready for decision.

I. STATEMENT OF FACTS

In 1999, Plaintiffs purchased the subject land and outbuildings. Included in the purchase was a home built in 1964 with 2,750 square feet. Plaintiffs intended to reside in the home once Sharon J. Dodge retired. Until then, the home was occupied by caretakers. Plaintiffs were prepared to move into the home on September 15, 2001. Unfortunately, on August 30, 2001, a fire destroyed the home. For the 2001-02 tax year, Defendant assigned the property a RMV of \$124,770 and a maximum assessed value (MAV)<sup>1</sup> and AV of \$97,180. After the fire, Defendant reduced the RMV to \$31,010 for the 2002-03 tax year, which reflected the value continuing in the homesite and remaining improvements. Defendant reduced the 2002-03 AV and MAV to \$16,090.

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<sup>1</sup> When referring to the property's RMV and MAV in this Decision, the court is referring to the RMV and MAV of the improvements and homesite. It is not including the value of the specially assessed land.

Plaintiffs began construction on their new home in 2002. An appraiser visited the property that year and, during the visit, discovered a multi-purpose building not previously appraised. The appraiser also observed that the machine shed had larger square footage than previously noted and a wall filled in. As a result, he treated the machine shed as being converted into a general purpose building. Finally, an electric gate had been added to the property.<sup>2</sup> The appraiser determined those changes and omissions had a RMV of \$9,870.

On the 2003-04 tax roll, Defendant treated the home as 44 percent complete and added a RMV for the home of \$71,860. Defendant also added a RMV of \$9,870 for the omitted and modified outbuildings and gate to arrive at a total additional RMV of \$81,730. Defendant applied the changed property ratio (CPR) of .7061 to the RMV to arrive at a MAV adjustment of \$57,710. Defendant added the MAV adjustment of \$57,710 to \$16,570 (the prior year's MAV increased by three percent) to arrive at a total 2003-04 MAV of \$74,280.

For the 2004-05 tax year, Defendant added a RMV of \$39,110 for additional construction to the home. Defendant applied the CPR against the \$39,110 to arrive at a MAV adjustment of \$27,550. Finally, for the 2005-06 tax year, Defendant treated the home as 100 percent complete. Defendant added a RMV of \$54,410 to arrive at a total RMV for the property of \$199,100. Defendant applied the CPR to the \$54,410 to arrive at a MAV adjustment of \$36,270. The total 2005-06 MAV was \$143,440. Overall, Defendant added a RMV of \$165,380 for the home.

Plaintiffs appeal the 2005-06 values. Plaintiffs claim the court should order the MAV reduced to the level it would have been had no fire occurred. In essence, Plaintiffs request that the MAV of the prior home be continued on the tax roll. Plaintiffs further claim that the RMV of the covered patio attached to the home should be reduced from \$10,500 to \$3,000. Finally,

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<sup>2</sup> The last time an appraiser had visited the property was 10 years earlier in 1992.

Plaintiffs claim Defendant should not have added value for the outbuildings in the 2003-04 tax year because those buildings existed at the time of their purchase.

## II. ANALYSIS

### A. *Maximum Assessed Value*

Plaintiffs' main argument is that the property's MAV should be reduced to reflect the MAV that would have been in place had no fire occurred on the property. Plaintiffs argue that, through no fault of their own, they had to build a new house, even though they preferred the older home. Plaintiffs claim they have been penalized twice: once for the cost of building a new home and again for the increased taxes on the property.

ORS 308.425<sup>3</sup> sets forth the tax treatment for property damaged or destroyed by fire. When a property is damaged or destroyed, the county assessor must recognize the reduced value and, upon application, prorate the taxes owing for that year. In this case, Defendant recognized the consequences of the fire by reducing the 2002-03 RMV to \$31,010 and the MAV to \$16,090. ORS 308.425(4) further provides that repairs to property that is damaged are treated as "new property or new improvements to property under ORS 308.153." ORS 308.153 provides, in pertinent part:

"(1) If new property is added to the assessment roll or improvements are made to property as of January 1 of the assessment year, the maximum assessed value of the property shall be the sum of:

"(a) The maximum assessed value determined under ORS 308.146; and

"(b) The product of the value of the new property or new improvements determined under subsection (2)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year."

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<sup>3</sup> All references to the Oregon Revised Statutes (ORS) are to 2005.

After the fire, Defendant calculated the MAV in accordance with the statutory language. It first reduced the RMV and MAV for the 2002-03 tax year to reflect the value reduction resulting from the fire. Then, for the 2003-04 tax year, it recognized improvements that were made to the property. It took the prior year's MAV and increased it three percent, pursuant to ORS 308.153(1)(a). Then, it multiplied the value of the property added by the CPR pursuant to ORS 308.153(1)(b). Those two values were added together to arrive at the new MAV. Defendant took identical steps the following years to account for the improvements to the property.

Plaintiffs claim the court should ignore the statutory process for calculating MAV following a fire and reinstate the MAV as though no fire had occurred. However, there is no statutory authority for Plaintiffs' approach. Instead, the law is clear that the MAV must be recalculated to first reflect the reduction in value resulting from the fire and, second, to reflect the increase in value resulting from the new improvements. Defendant's recalculation of the MAV is correct.

B. *Real Market Value*

1. *Home*

Plaintiffs claim the RMV of the home should be reduced by approximately \$7,000 to reflect Defendant's overvaluation of the covered patio. The court observes, however, that the total RMV of the improvements (including home and outbuildings) on the 2005-06 tax roll was \$199,100. Plaintiffs submitted a receipt from a contractor dated May 4, 2004, showing they paid \$205,757 to have the home built. Defendant, therefore, valued the property less than what Plaintiffs paid to have just the home built. It may be that Defendant overvalued the patio but, if it did, then Defendant undervalued other components. The court must address the total RMV of

the improvements and, with the information provided, the court is of the opinion Defendant has fairly valued the home.

2. *Outbuildings*

Plaintiffs further object to Defendant's addition of value to the 2003-04 tax roll. An appraiser visited the property in 2002 and observed changes since the last time an appraiser had visited the property in 1992. ORS 311.216 requires county assessors to add value to the tax roll when they discover property has been omitted. Plaintiffs complain because those buildings and improvements were in place when they purchased the property. However, if they were not accounted for on the tax roll, Defendant is responsible for correcting the tax roll and ensuring those components are properly taxed.

III. CONCLUSION

The court concludes Defendant followed the correct procedure when recalculating the property's RMV and MAV following the new construction of the home. The court further finds Defendant's RMV determinations are reasonable and that it properly added value for the outbuildings. Now, therefore,

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

Dated this \_\_\_\_\_ day of July 2006.

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COYREEN R. WEIDNER  
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 Coyreen R. Weidner on July 20, 2006. The Court filed and entered this document on July 20, 2006.***