

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

CHARLTON WOODS,)	
)	
Plaintiff,)	TC-MD 060391B
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals the assessment of certain real property for the 2005-06 tax year. Trial was held October 5, 2006.

The Multnomah County Board of Property Tax Appeals set the 2004-05 real market value (RMV) at a total of \$258,690, the exception value (EV) at \$40,420, and the maximum assessed value (MAV) at \$137,690.

At issue is whether any EV may be added to the 2005-06 tax roll pursuant to ORS 308.146(3)(a).¹

I. STATEMENT OF FACTS

The subject property² is a single-family residence located at 2712 SE 43rd Avenue in Portland. Plaintiff purchased the property in November of 2004; he paid \$255,000. During the next month, prior to January 1, 2005, he made certain repairs and construction relating to the roof. The work cost him less than \$6,000.

Defendant's information was sketchy at best. No trial exhibit was presented. Brief testimony was submitted in a summary fashion. The only substantive document offered by

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

² Account R215874.

Defendant was mailed nearly four months prior to the trial date. It consisted of brief copies of the property's appraisal jacket and other historical information. No specificity was offered as to what improvements were added, when any additions occurred, or what certain values were attached to each individual component.

II. ANALYSIS

Generally, Measure 50 provides that for the tax year in question, the MAV may be increased no more than three percent each year. *See* ORS 308.146(1). Exceptions exist to that general rule; Defendant relies upon ORS 308.146(3) for its actions in adding \$40,420 to the 2005-06 tax roll as EV. That statute provides in part:

“Notwithstanding subsections (1) and (2) of this section, the maximum assessed value and assessed value of property shall be determined as provided in ORS 308.149 to ORS 308.166 if:

“(a) The property is new property or new improvements to property[.]”

ORS 308.146(3).

Defendant is permitted to add to the tax roll improvements “made to the property as of January 1 of the assessment year.” ORS 308.153(1). New improvements do “not include changes in the value of the property as the result of * * * [m]inor construction.”

ORS 308.149(5)(b). Minor construction is defined as “additions of real property improvements, the real market value of which does not exceed \$10,000 in any assessment year * * *.”

ORS 308.149(6).

Plaintiff has clearly established that the only work he undertook on the house (after acquisition) was in December of 2004. The costs incurred were less than \$6,000. There is no substantial evidence that work on the property exceeded the maximum assessed value thresholds of \$10,000 in one year and \$25,000 in five consecutive years. *See* ORS 308.149(6). Plaintiff

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therefore contends the 2005-06 MAV is limited to \$109,550 (prior 2004-05 MAV) times 1.03. That yields a revised MAV of \$112,836. The court concurs.

Defendant offered no probative evidence. No trial exhibits were presented by Defendant, nor was any convincing testimony provided. Nothing rebuts Plaintiff's exhibits and sworn testimony.

Plaintiff has the burden of proof and must establish his 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). Plaintiff has clearly met that statutory requirement in this record.

The conclusion in this case is consistent to those reached in similar Multnomah County cases presented to this court. *See Ableman v. Multnomah County Assessor*, TC-MD No 030746D (Aug 19, 2003); *Metzger v. Multnomah County Assessor*, TC-MD No 050231C (Apr 20, 2006).

The best evidence of 2005-06 values is that offered by Plaintiff. As stipulated by the parties, the RMV total is \$258,690. The court concludes there was no EV for the 2005-06 tax year and that the MAV was \$112,830.

III. CONCLUSION

Plaintiff has proven his case by a preponderance of the evidence. Now, therefore,

IT IS THE DECISION OF THIS COURT that the 2005-06 exception value shall be reduced from \$40,420 to \$-0-, and

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IT IS FURTHER DECIDED that the maximum assessed value shall be reduced to \$112,830.

Dated this _____ day of January 2007.

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 on January 22, 2007. The Court filed and entered this document on January 22, 2007.