

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

MAX MARQUISS and JEAN MARQUISS,)	
)	
Plaintiffs,)	TC-MD 060489B
)	
v.)	
)	
JEFFERSON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs appeal concerning certain real property assessments for the 2005-06 tax year for Account 3989.

A trial was held on October 30, 2006. Max Marquiss appeared for Plaintiffs. Donald F. Cox and Mary Ahern represented Defendant.

The Jefferson County Board of Property Tax Appeals (Board) set the total real market value (RMV) at \$396,738, allocating \$313,809 to land and \$82,929 to improvements. The Board also set the maximum assessed value (MAV) at \$236,819. Plaintiffs request a “24.83% reduction in taxes.” (Ptf’s Compl at 1.)

I. STATEMENT OF FACTS

The subject property is a single-family residence located on Lake Billy Chinook in Central Oregon. The parcel originally consisted of 6.22 acres of land, which was shared by three separate individuals.

During 2004, Plaintiffs requested a partition of the parcel. That application was granted. As a result, a new RMV and an MAV were computed for each of the three newly created tax parcels, effective for the 2005-06 tax year. Plaintiffs contend the values were computed incorrectly; they object to the increase in taxes billed from the prior year. The land in all three tax lots received the same base exception value of \$198,911 for tax year 2005-06.

Plaintiffs' presentation consisted of opinions and arguments. They compared the subject property with three other parcels. (Ptf's ltr at 2, July 13, 2006.) Presented were assessed values, percentages to RMV, and AV price per square foot. A request for a reduction in RMV for the improvements to \$14.17 per square foot was based on that computation. The primary focus was on the land's RMV; testimony focused on averages and assumptions.

Defendant's appraisers offered exhibits and testimony regarding two sales of comparable properties located on the same lake. Those transactions occurred at prices of \$400,000 and \$500,000. That analysis left residual land values of \$306,522 and \$329,933, which closely bracket the subject land's RMV of \$313,809.

II. ANALYSIS

ORS 308.149¹ through ORS 308.166 govern "Special Determinations of Value," including the partitions of land. Specifically, ORS 308.156(5) provides for the computation of MAV after a partition. Defendant correctly followed the mandates of that statute in deriving MAV for this property. Importantly, the land was treated in a consistent and uniform manner in that the exception value after partition was identical for all three parcels.

Furthermore, Defendant's witnesses presented convincing testimony about two nearby sales. Their evidence fully supports the BOPTA determination.

Plaintiffs, on the other hand, did not produce any evidence related to marketplace transactions. The assessments of other properties cannot serve as the basis to justify a lower RMV on the subject property.

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

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

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). Plaintiffs have not met that statutory requirement in this record.

III. CONCLUSION

Plaintiffs have not shown any error in the assessment record. Now, therefore,

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

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 31, 2007. The Court filed and entered this document on January 31, 2007.