

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DON CHAMBERS,)	
)	
Plaintiff,)	TC-MD 070161C
)	
v.)	
)	
LINCOLN COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals the value of his mobile home,¹ identified as account M520865 for purposes of the 2006-07 property tax assessment. Trial was held in Salem, Oregon, in the courtroom of the Oregon Tax Court on July 26, 2007, at 10 a.m. Plaintiff appeared on his own behalf. Defendant was represented by Kathy Leib (Leib), registered appraiser, Lincoln County Assessor’s office. For ease of reference, the parties will be referred to as taxpayer and the county.

I. STATEMENT OF FACTS

The subject property is a 24 foot by 48 foot (1,152 square feet) double-wide mobile home built in 1976. The home has two bedrooms and two bathrooms, a flat-style metal roof, metal siding, single pane aluminum windows, faux wood interior paneling on the walls,² and extruded plastic molding. Taxpayer purchased a home on July 16, 2005, for \$3,000, which was the amount advertised in the local newspaper. The home was located in a mobile home park in Clackamas County. The assessor in Clackamas County placed a real market value (RMV) on the mobile home of \$12,200 in 2005-06, and \$13,300 the year before that (2004-05). The previous owner

¹ The court is aware that current nomenclature is “manufactured” home rather than “mobile” home, but, given the age of the subject property (built in 1976) and Plaintiff’s explanation of the evolution of these structures from travel trailers to mobile homes with two by four stud wall construction and flat roofs, to manufactured homes with two by six walls and pitched roofs, the court, in this case, feels that the most correct terminology is mobile home.

² Newer homes are built like conventional stick built structures with sheet rock wall surfaces.

sold the home because the park was closing due to redevelopment, and the seller was given six months to move the home.

Taxpayer testified that the mobile home had an attached carport and a screened-in porch, which were included in the purchase price. Taxpayer moved the home to a 0.13 acre lot that he owns in Lincoln County, which he purchased in 1992 for \$7,700. Taxpayer improved that lot with a septic system, a well, and an electrical hookup, as well as grading and gravel for a driveway and leveling for a home site.

In order to move the mobile home to its new location, taxpayer, who has been in the business of selling travel trailers, mobile homes, and recreational vehicles for approximately 54 years, dismantled the carport and porch, separated the mobile home into its two 12-foot wide sections, and paid \$1,100 to have the home towed to his lot in Lincoln County. Once the home was delivered to its new location, taxpayer reassembled the home and connected it to water, sewer, and electric. According to the testimony, separating the home into its two separate sections required removing approximately 25 bolts from the beams in the ceiling and removing all the nails in the floor joists that hold the home together. Water, sewer, and electric must also be detached. Setup includes the reverse of those operations. Taxpayer testified that he paid approximately \$500 to have water, sewer, and electric connected to the home, but acknowledged he may have saved money because of his business connections and personal abilities.³

Plaintiff moved the mobile home before the January 1, 2006, assessment date for the 2006-07 tax year. The county added the value of the home to the rolls for the 2006-07 tax year as new property. The county determined that the RMV of the mobile home as of January 1, 2006, was \$47,810; the maximum assessed value (MAV) and assessed value (AV) were set at

³ Friends helped him out and taxpayer did some of the work himself.

\$28,210.⁴ Taxpayer appealed the RMV to the county board of property tax appeals (board) and the board sustained the assessor's value. Taxpayer appealed that decision to this court, asserting that the RMV should be between \$4,000 and \$5,000, based on the associated costs of purchasing the home and having it moved to Lincoln County.

II. ANALYSIS

The issue in this case is the RMV of taxpayer's mobile home for the 2006-07 tax year, which had a statutory assessment date of January 1, 2006. ORS 308.007(1)(a), (2).⁵ The assessment date is important because Plaintiff, at trial, continually referred to recent discussions he had (in the summer of 2007) with real estate agents about the current soft market. The opinions of those individuals were that prices had been overinflated for several years.

RMV 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).

Both parties submitted evidence intended to support their views of value, but neither side submitted an actual appraisal. Taxpayer has asked the court to reduce his value from \$47,810 to between \$4,000 and \$5,000. Taxpayer contends that the purchase price of \$3,000 is the best indicator of value. Taxpayer believes that additional support for his value estimate can be found

⁴ Those values were determined by multiplying the RMV of \$47,810 by the applicable change property ratio, as provided in ORS 308.153(1). *See also* OAR 150-308.149(3) (2005) (defining change property ratio).

⁵ All references to the Oregon Revised Statutes (ORS) are to 2005.

ORS 308.007(1)(a) provides that the "assessment date" is the day on which property is to be assessed under ORS 308.210. ORS 308.210(1) requires the assessor to maintain a record of the assessment of taxable property as of January 1 of the assessment year. ORS 308.007(1)(b) defines assessment year as a calendar year. ORS 308.007(1)(c) defines the "tax year" as a 12 month period beginning July 1. Finally, ORS 308.007(2) provides that "the assessment year beginning January 1 corresponds to the tax year beginning July 1 of the same calendar year." Thus, the 2006-07 tax year corresponds to the 2006 assessment year, which had an assessment date of January 1, 2006, and ran for a 12-month period beginning July 1, 2006.

from listings, estimates, and an insurance quote. Taxpayer submitted an estimate from Admiral Homes, Inc. (Admiral), which states that the retail value of a home similar to his is between \$2,500 and \$4,500. (Ptf's Ex 7.) Taxpayer noted that Admiral is selling a larger, brand new manufactured home with two-by-six stud wall construction and a "pitched" roof for \$40,500. (Ptf's Ex 8.) Taxpayer submitted a May 2007 listing from The Oregonian for a home of his vintage; that home was a 1971, 12 foot by 44 foot Lamplighter mobile home, with an asking price of \$600. (Ptf's Ex 36.) According to the advertisement, the Lamplighter had to be moved. *Id.* Taxpayer also submitted a written statement from an insurance company indicating that it would only insure his home for \$6,000. (Ptf's Ex 33.) Finally, the RMV on the tax rolls in the county where the property was located in the prior year (2005) was \$12,200.

Taxpayer has the burden of proof and must establish his case by a "preponderance" of the evidence. "Preponderance" has been defined by the Oregon Supreme Court as "the greater weight of evidence." *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 394, 737 P2d 595 (1987); see also *Feves v. Dept. of Rev.*, 4 OTR 302, 312 (1971) (defining preponderance as "the greater weight of the evidence, the more convincing evidence.")

Taxpayer's case is flawed in several respects. To begin with, taxpayer's purchase does not appear to have been an arm's-length transaction because the seller was essentially evicted from the mobile home park in which the home was located and had only six months to find a buyer for her home – a buyer willing to dismantle the home and move it to another location. In an arm's-length transaction, the parties act without compulsion. The fact that the seller had a limited amount time to dispose of the property because the park was closing suggests duress on the part of the seller, which likely translates into a bargain for taxpayer as the buyer. Thus, the \$3,000 purchase price is not a fair indicator of value.

Taxpayer also overlooks entrepreneurial profit, which is defined as “an economic reward sufficient to induce an entrepreneur to incur the risk associated with a building project.” Appraisal Institute, *The Appraisal of Real Estate* 360 (12th ed 2001). Entrepreneurial profit can be calculated as “the difference between the sum of direct and indirect costs [of the project] and the market value of the property.” *Id.* Taxpayer bought the home, split it into two parts, and paid someone to tow the home to its new location at the coast. After the home was delivered, taxpayer put the home back together and paid to have the home connected to septic, water, and electric service. According to his testimony, taxpayer paid \$1,100 to have the home transported, and \$500 for the hookups. Taxpayer’s direct costs total \$4,600, and taxpayer performed some of the work himself, which means that there are additional costs not accounted for in that figure.

Finally, the value of the home set by the assessor in the county where the home was previously located (*i.e.*, \$12,200) is not a fair indicator of the home’s worth because it was located in a mobile home park on land owned by the park owner and rented to the seller, and, under ORS 308.875,⁶ it was assessed as personal property. Under Oregon law, when taxpayer bought the home and moved it to his lot, the classification of the home changed to real property.⁷ The change in classification recognizes the underlying reality that there is greater risk to buying a mobile home situated on rented space (*e.g.*, in a mobile home park). The risk is that the owner of the land could require the home to be moved. The risk created by that uncertainty diminishes the market value of the home. The subject property is a case in point. The park where the home was

⁶ ORS 308.875 provides, in relevant part: “If the manufactured structure is owned separately and apart from the land upon which is located, the assessor shall assess and tax the manufactured structure as *personal property*.” (Emphasis added.)

⁷ ORS 308.875 provides, in relevant part: “if the manufactured structure and the land upon which the manufactured structure is situated are owned by the same person, the assessor shall assess the manufactured structure as *real property*.” (Emphasis added.)

located closed for development, and the owner was given only six months to move the home.

Those evidentiary shortcomings notwithstanding, taxpayer wonders how the county can place a value of \$47,810 on the home he purchased for \$3,000, estimated to be worth between \$2,000 and \$4,000, and which an insurance company will only insure for \$6,000. The court finds that to be a valid question, and will therefore turn to Defendant's evidence.

For its part, the county presented a considerable amount of raw sales information, but Leib never tied that information together. Leib presented sales of manufactured homes located in mobile home parks, bare land sales, and sales of lots improved with manufactured homes that sold as a package (*i.e.*, home and land purchased together). Leib also spoke of the residual approach to value, and certain of her exhibits (Def's Ex D, E) provide the framework for that approach, but Leib did not undertake that exercise.⁸ Leib testified that her sales data demonstrates that values are not at "rock bottom," and that there is a minimum value for any livable structure.

Leib's sales of mobile homes in mobile home parks show a range in value from a low of \$8,500 to a high of \$67,500. (Def's Ex C at 1.) The majority of those homes sold for \$20,000 to \$25,000. (*Id.*) The two homes that appear to be most similar to taxpayer's home in terms of age and size sold for \$14,500 and \$20,000, which translate to per foot prices of \$10.79 and \$14.88, respectively. The home that sold for \$20,000 had three bedrooms compared to only two for the subject property. The \$14,500 sale was a two-bedroom unit like taxpayer's. Both of those comparable homes were about 200 square feet larger, but several years older. (*Id.*)

The county's bare land sales show a range in price from a low of \$1.77 per square foot (excluding sale #6 in the 2005 data) to a high of \$6.75 per square foot. (Def's Ex D.) Leib

⁸ Under the residual approach to value, an appraiser analyzes bare land sales to determine land values and then adjusts the sales of comparable improved properties (in this case, lots with manufactured homes) by subtracting the estimated land value, to arrive at a residual value for the manufactured home.

testified that her bare land sales demonstrate merely that larger lots do not sell for proportionally higher prices. Although the data pool for the bare land sales is relatively small, it suggests to the court a per foot value of approximately \$3.40 for a quarter-acre lots and \$4.50 for lots similar in size to the subject, which is 0.13 acres. That information can be helpful in extracting the residual value of an improvement from the sale of improved property, once the market value of the site developments is added to the value of the bare land to arrive at a total land value.

Leib also presented evidence of “packaged” sales where the buyer acquired both the land and the mobile home. (Def’s Ex E at 1.) The sales prices ranged from a low of \$65,900 to a high of \$245,000. (*Id.*) Those sales involved homes as old as 1969 and as new as 1996; many included additional features (*e.g.*, decks, covered patios, concrete areas) or structures (*e.g.*, shops, barns). The subject was built in 1976 and is valued on a stand-alone basis because taxpayer has not appealed the value of the land. There is also a considerable disparity in the sizes of the homes, which range from 800 square feet to 1,848, compared to taxpayer’s 1,152 square foot home. (*Id.*) Leib testified that her sales support the tax roll value and demonstrate that no mobile homes are selling for \$5,000. Leib did not demonstrate how her improved sales should be adjusted to extract the residual value of the home. And, without more information, including photographs, it is difficult to determine which of those properties is most similar to the subject.

The court has some concerns with the county’s evidence and presentation of its case. The assessor has only used a 30 percent depreciation factor for taxpayer’s 30-year-old mobile home, which was built with dated material, and has been moved at least twice (from the lot to the previous park, and then from that park to taxpayer’s lot at the coast). (Def’s Ex A-2.) Leib did not explain why the final value is \$47,810, when the estimated replacement cost new was \$35,133, and the home is depreciated by 30 percent. (Def’s Ex A-2.) Finally, in discussing the

county's photographs, Leib noted that the home was located on a large lot. It is difficult to understand how the size of taxpayer's lot affects the value of the mobile home.

As a general matter, the photographs of the subject property depict an aging home with a bad roof (evidenced by the tarps and boards on the roof), single pane aluminum windows, interior faux wood paneling, no steps to the front or back door, and sitting on blocks without skirting. (Def's Ex B-1 through B-9.) The home does not appear to be 70 percent good.

Considering the evidence as a whole, the court finds that the RMV of taxpayer's mobile home was \$30,000 as of January 1, 2006. Because the home was first placed on the tax rolls in Lincoln County for the 2006-07 tax year, the county shall use the \$30,000 RMV as a basis for determining MAV and AV, multiplying that figure by the "ratio of * * * average maximum assessed value over the average real market value for the assessment year," as required by ORS 308.153(1)(b).⁹

III. CONCLUSION

The court concludes that the RMV of the subject property is considerably more than taxpayer's direct costs of \$4,600, but also less than the current RMV on the rolls of \$47,810. The court reviewed all the evidence in considerable detail and concludes that the RMV for the 2006-07 tax year was \$30,000. Now, therefore,

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⁹ The values on taxpayer's tax statement for the year at issue suggest a ratio of 59 percent, which would produce a maximum assessed value of \$17,700. Because that number is less than the \$30,000 RMV, the assessed value (AV) would be \$17,700. The court leaves it to the county to perform the necessary calculation to determine MAV and AV.

IT IS THE DECISION OF THIS COURT that the RMV of the subject property, identified in the county's records as assessor's Account M520865, is \$30,000 as of January 1, 2006.

Dated this _____ day of November 2007.

DAN ROBINSON
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 Dan Robinson on November 19, 2007. The Court filed and entered this document on November 19, 2007.