

THIS DECISION WAS SIGNED BY JUDGE CARL N. BYERS ON OCTOBER 12, 2000, AND FILE STAMPED ON OCTOBER 12, 2000. THIS IS A NONPUBLISHED DECISION.

IN THE OREGON TAX COURT
REGULAR DIVISION
Property Tax

GILBERT E. ORR,)
) **Case No. 4436**
Plaintiff,)
) **OPINION**
v.)
)
LINCOLN COUNTY ASSESSOR, and)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendants.)

Plaintiff (taxpayer) appeals the 1997-98 real market value of a house and lot near the Siletz River. Taxpayer claims the periodic flooding experienced by the property has diminished its real market value. Trial was held September 18, 2000, in Newport.

EVIDENCE

The subject property is a .13 acre lot in the Ballard Acres subdivision, not far from the mouth of the Siletz River. It is not on the river but in the river's flood-plain area. It is improved with a fisherman's cabin of approximately 840 square feet built in 1967 by taxpayer's parents. Taxpayer inherited the property in 1981. The property has flooded

several times since 1967, including in 1996.

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Taxpayer testified that the 1996 flooding significantly damaged the cabin. Taxpayer had to remove paneling, insulation, flooring, and other parts that were damaged, including an attached storage shed. Taxpayer contends the building is uninhabitable, and the property now has a total market value of not more than \$15,000.

A county appraiser, Russ Sears, testified on behalf of Lincoln County. He views the subject property as just one of a number of properties in the area, which are subject to flooding and damage due to their location in the flood plain. He indicated that the subject's real market value has already been adjusted for flooding. He based his opinion upon seven improved sales and four vacant-land sales, all of which indicated a range of \$29,400 to \$46,040. Consequently, he concluded that the subject's assessed value of \$34,080 should be sustained.

Taxpayer contends that a .23 acre lot will sell for twice as much as an .11 acre lot, particularly if the larger parcel is a double lot. However, the county's evidence established that the larger parcel in question qualifies for only one septic permit and therefore constitutes only one residential

site. While a larger site might merit some additional value for size, there is no evidence that the market will pay twice as much for twice as much land.

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Taxpayer also contends that the flooding destroyed the value of the subject improvements and significantly diminished the value of the land. Taxpayer submitted no evidence to support this position. Comparable sales in the flood-plain area indicate that the facts are to the contrary. Moreover, on cross examination, taxpayer acknowledged that he had the subject property appraised to obtain before-flood and after-flood values for purposes of reporting a casualty loss on his federal income tax return. His appraiser estimated a value of \$72,000 before the flood and \$50,000 after the flood.

Taxpayer also claims discrimination because he is an out-of-state owner. Taxpayer submitted approximately 1,000 pages of materials he copied from the assessor's office. However, taxpayer pointed to no specific properties, asserted no specific facts, and made no specific contentions with regard to any of those properties or the subject property. The court finds no evidence of discrimination in such materials.

The court finds that taxpayer has failed to prove that the real market value of the subject property is less than its

maximum assessed value of \$34,080. Judgment will be entered consistent with this Opinion. Costs to Defendant Lincoln County.

Dated this ____ day of October, 2000.

Carl N. Byers
Judge