

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

DAVID M. CHARLES AND)	
SEDIEGH Z. KHODAVERDI,)	
)	No. 000458E
Plaintiffs,)	
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	DECISION OF DISMISSAL
Defendant.)	

This matter is before the court on its own motion to dismiss the above-entitled matter because it lacks authority to provide plaintiffs with the relief requested. The court discussed its motion with the parties during the case management conference held July 11, 2000. David M. Charles appeared on behalf of plaintiffs. Mike Trojan, Appraiser, appeared on behalf of defendant (the county).

STATEMENT OF FACTS

Plaintiffs appeal the 1999-2000 assessed value of their property identified as Account No. R316729. Plaintiffs appealed the real market value of their property to the county board claiming the value was no more than the recent purchase price paid for the property. The board agreed and reduced the market value of the property from \$370,600 to \$300,000. The maximum assessed value remained at \$305,430 and the assessed value was reduced from \$305,430 to \$300,000. Plaintiffs appeal claiming the assessed value should be reduced to \$225,000 based on the real market value reduction and the assessed values of comparable properties. As explained at the

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conference, the court does not have authority to adjust the assessed value under these circumstances.

COURT'S ANALYSIS

In May 1997, Oregon voters passed by referendum Measure 50 (M50). This measure substantially modified the property tax system in the state of Oregon. Prior to M50, a property was taxed at its real market value (RMV). Due to increasing values, Oregon voters chose to limit the growth of assessed values. In doing so, M50 created the concept of "maximum assessed value" (MAV). For the 1997-98 tax year, which was the implementation year for M50, the MAV was calculated by taking the property's 1995-96 RMV and subtracting ten percent. Or Const, Art XI, § 11(1)(a).¹ M50 provides that, for each successive year, the MAV will increase no more than three percent a year. Or Const, Art XI, § 11(1)(b); see *also* ORS 308.146(1). The measure also requires counties to maintain a record of the property's RMV because a property is to be taxed at the lesser of its MAV or its RMV. Or Const, Art XI, § 11(1)(f).² In this case, the property's assessed value was initially its MAV because it was less than the property's RMV. After the board reduced the RMV below the MAV, the assessed value became the property's RMV.

Plaintiffs provided evidence that suggests the property's assessed value is significantly greater than comparable properties. To reduce the assessed value, however, the court would need to reduce either the RMV or the MAV. The board already reduced the RMV to the purchase price of the property, and plaintiffs do not claim it should be further reduced. The MAV, however, is derived from a constitutional formula; as a result,

¹ See *also* Or Laws 1997, ch 541, § 2(2), *compiled as a note after* ORS 308.146.

² See *also* ORS 308.146(2) and Or Laws 1997, ch 541, § 2(3), *compiled as a note after* ORS 308.146.

the court is unable to modify the subject property's MAV.³

Plaintiffs provided evidence that detailed the variance in assessed values between the subject property and comparable properties. Although the disparity is understandably frustrating, the Regular Division of the Tax Court has already accepted that M50 will result in some degree of nonuniformity. In *Ellis v. Lorati*, the court stated:

“The court recognizes that in one sense MAV is somewhat artificial or arbitrary. That is inherent in the overall scheme of section 11 [of the Oregon Constitution]. The concept may, over time, result in various degrees of nonuniformity in the property tax system. Section 11(18) contemplates this and excuses itself from complying with other constitutional provisions requiring uniformity, specifically Article IX, section 1, and Article I, section 32.” 14 OTR 525, 535 (1999).

CONCLUSION

The court concludes that it lacks authority to reduce the assessed value as requested by plaintiffs. Now, therefore;

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IT IS THE DECISION OF THIS COURT that the above-entitled matter be

³ There are certain circumstances when the court may review a property's MAV. For example, when an addition is added to a building, the county must increase the MAV. The value added to the MAV is the RMV of the addition multiplied by the ratio of the average MAV to average RMV of similarly situated property. Or Const, Art XI, § 11(1)(c). The court may evaluate the RMV of the addition, which will ultimately impact the property's MAV. No circumstances are presented in this case to allow the court to review the property's MAV.

dismissed.

Dated this _____ day of July, 2000.

COYREEN R. WEIDNER
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97310. 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 19, 2000. THE COURT FILED THIS DOCUMENT ON JULY 19, 2000.