

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

ROBERT E. and BETTY J. BAUER,)	
)	
Plaintiffs,)	No. 000507C
)	
v.)	
)	
TILLAMOOK COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs have appealed the real market value of certain real property identified in the Tillamook County Assessor's records as Account No. 248850 for the 1999-00 tax year. Plaintiffs' appeal is timely from an order of the county board of property tax appeals (board). A case management conference was held June 19, 2000. Robert Bauer appeared for plaintiffs. Defendant appeared through Mr. Scott MacLean, an appraiser with the county assessor's office.

Plaintiffs request that the real market value be reduced from \$227,074 to \$155,300 based on recent area sales and listings. The appeal was carefully and thoughtfully prepared and demonstrates an awareness of property valuation methodology. Unfortunately, as the court explained during the June 19 hearing, the maximum assessed value is \$130,216 and, as the county indicates in its Answer, a reduction in real market value to \$155,300 would not reduce the underlying tax liability and the appeal is therefore not justiciable.

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COURT'S ANALYSIS

A taxpayer appealing to the Magistrate Division of the Oregon Tax Court must, by statute, be “aggrieved”. ORS 305.275(1)(a).¹ This is a prerequisite to moving forward with an appeal. If a taxpayer is not aggrieved, the taxpayer does not have standing and the court may not exercise its jurisdiction over the claim.

Measure 50, adopted by the Oregon voters in May 1997, amended the state constitution by creating a "maximum assessed value", which for the 1997-98 tax year, was 90 percent of the property's real market value for the tax year beginning July 1, 1995 (1995-96).² Each year the maximum assessed value cannot be increased by

¹ ORS 305.275 provides in relevant part:

"(1) Any person may appeal under this subsection to the magistrate division of the Oregon Tax Court as provided in ORS 305.280 and 305.560, if all of the following criteria are met:

"(a) The person must be aggrieved by and affected by an act, omission, order or determination of:

"* * * * *

"(B) A county board of property tax appeals other than an order of the board;

"* * * * *

"(3) Subject to ORS 305.403, if a taxpayer may appeal to the board of property tax appeals under ORS 309.100, then no appeal shall be allowed under this section. The appeal under this section is from an order of the board as a result of the appeal filed under ORS 309.100 or from an order of the board that certain corrections, additions to or changes in the roll be made." (Emphasis added).

Reference to the Oregon Revised Statutes (ORS) is to the 1999 version of the laws.

² The pertinent portion of the constitutional amendment provides:

"(1)(a) For the tax year beginning July 1, 1997, each unit of property in this state shall have a maximum assessed value for ad valorem property tax purposes that does not exceed the property's real market value for the tax year beginning July 1, 1995, reduced by 10 percent." Or Const, Art XI, § 11.

more than three percent . Or Const, Art XI, § 11(1)(b). Assessed value is the lesser of the property's real market value or maximum assessed value. ORS 308.146(2). Real market value continues to be based on “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).

The court has repeatedly held that a request for a reduction in real market value, where the requested relief, if granted, would not bring the real market value below the assessed value, or at least would not reduce the real market value low enough to reduce the resulting tax liability under the limits of Measure 5, is not justiciable. *See Parks Westsac LLC v. Dept. of Rev.*, ___ OTR ___ (1999), *Gilbert-Bamrick*, 2000 WL 290969 (OTC-MD No. 000042E, March 15, 2000), *Gethner v. Multnomah County Assessor*, 2000 WL 246456 (OTC-MD No. 991471D, Feb. 14, 2000). This is because the result would have no practical effect on the rights of the parties because real market value has no significance for tax purposes and property taxes will not be effected by granting the requested relief. Thus any action by the court is essentially pro forma. The principle of aggrievement and justiciability set out in those cases applies with equal force to the matter now before the court.

Mr. Bauer expressed concern that the dismissal of his appeal might affect his ability to appeal the real market value in future years. He was assured that would not be the case since each year stands on its own and the issue in any future appeal will be market value, which can be demonstrated at any time by reference to sales and listings, assuming the evidence is found to be persuasive.

CONCLUSION

Plaintiffs are not aggrieved and therefore lack standing. This is because the claim asserted is not justiciable in that a reduction in real market value will not lower assessed value and, therefore, no tax savings will be forthcoming.

IT IS THE DECISION OF THE COURT that the above-entitled matter must be dismissed.

Dated this _____ day of June, 2000.

DAN ROBINSON
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 DAN ROBINSON ON JUNE 22, 2000. THE COURT FILED THIS DOCUMENT ON JUNE 22, 2000.