

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

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| SERGEY GAYKO and SERGEY I. GORBENKO, |) | |
| |) | |
| Plaintiffs, |) | No. 000520C |
| |) | |
| v. |) | |
| |) | |
| MULTNOMAH COUNTY ASSESSOR, |) | |
| |) | |
| Defendant. |) | DECISION |

Plaintiffs appealed from an order of the County Board of Property Tax Appeals (board) requesting a reduction in assessed value (AV) commensurate with the reduction in real market value (RMV) ordered by the board. The tax year at issue is 1999-00 and the account number is R237783. Defendant in its Answer moved to dismiss on the grounds that the law does not afford the relief requested, citing ORS 308.146.

A case management conference was held July 18, 2000. Sergey Gayko appeared for plaintiffs and was assisted by Ms. Marina Braun, a court appointed interpreter fluent in Russian. Defendant appeared through Mr. Kurt Hamm, an appraiser with the Multnomah County Assessor's Office.

STATEMENT OF FACTS

The board reduced the RMV of the subject property from \$175,500 to \$138,500 (a 21% drop). The MAV and AV remained undisturbed at \$129,270. Mr. Hamm indicated that the board's RMV reduction generated a tax refund because of the interplay between Measure 5 and Measure 50. Plaintiffs are satisfied with the board's RMV reduction but feel that a 21 percent reduction in AV is appropriate based on the board's

reduction in RMV.

COURT'S ANALYSIS

As will be explained, plaintiffs lack an understanding of Oregon's present property tax scheme. The applicable law does not allow the court to grant the requested relief.

Oregon voters passed Measure 50 by referendum in May 1997. This measure substantially modified the property tax system in Oregon. Prior to Measure 50, a property was taxed at its real market value (RMV). Thus, if you proved your house was "worth" \$100,000, you paid taxes on that value. Measure 50 created the concept of "maximum assessed value" (MAV) which, for the 1997-98 tax year, was 90 percent of the property's 1995-96 RMV. Or Const, Art XI, § 11(1)(a). For each successive year, the MAV cannot increase by more than three percent. Or Const, Art XI, § 11(1)(b); *see also* ORS 308.146(1). RMV continues to represent the value of the property as of the assessment date if sold on the open market. ORS 308.205. Assessed value is the lesser of RMV or MAV. ORS 308.146(2). Typically, as in this case, MAV is less than RMV, even as reduced by the board.

A simple illustration helps demonstrate the interplay between the various values tracked. Suppose that, in 1995, a property sells for \$100,000 and the assessor sets the 1995-96 RMV at \$100,000. In 1997, the house sells for \$115,000, but the tax statement for 1997-98 shows an RMV of \$140,000. The MAV on that statement would be \$90,000 (90% of the 1995 RMV of \$100,000). The AV, being the lesser of the two (RMV or MAV) would be \$90,000. If the property owner appealed the 1997-98 RMV on the tax statement and won a reduction from the board down to \$115,000 (the 1997 purchase

price), the MAV and AV would not change because they are both set, by law, at \$90,000. In 1998, the MAV would rise three percent to \$92,700. The RMV would go up or down depending on the market. However, unless market value dropped below \$92,700, the MAV would be the AV and the owner would pay taxes on that number.

MAV is derived by simple mathematical calculation¹ and is unaffected by the RMV. The AV, in turn, is simply the lesser of the two. Thus, the board's order in this case, reducing RMV, has no impact on MAV or AV (because RMV did not drop below MAV) and the court is unable to grant plaintiffs' request. The board would have to have lowered RMV below MAV in order for AV to be reduced.

CONCLUSION

As explained above, RMV in this case has no relationship to AV, which is derived from MAV, a creature of statute. The reduction in RMV has no bearing on AV. Plaintiffs indicated that they were satisfied with the board's RMV reduction. The board's action did produce a slight drop in taxes, to be achieved by refund from the county assessor. The law affords no further relief. Now, therefore;

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¹ 1997-98 MAV = 90 % of 1995-96 RMV; 1998-99 MAV = 1997-98 MAV multiplied by 1.03. 1999-00 MAV = 1998-99 MAV multiplied by 1.03.

IT IS THE DECISION OF THIS COURT that defendant's Motion to Dismiss is granted. The Complaint is dismissed.

Dated this _____ day of July, 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 JULY 28, 2000. THE COURT FILED THIS DOCUMENT ON JULY 28, 2000.