

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Property Tax

MICHAEL E. AND AMY J. MOLONY,)	
)	
Plaintiffs,)	
)	No. 000584E
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-entitled appeal. The court discussed its motion with the parties during the case management conference held August 15, 2000. Michael E. Molony appeared on behalf of plaintiffs (taxpayers). Linda U'Ren appeared on behalf of defendant (the county).

STATEMENT OF FACTS

Taxpayers appeal the 1998-99 and 1999-2000 assessed value of their property identified as Account No. R174268. Plaintiffs had appealed the 1999-2000 real market value of the property to the Multnomah County Board of Property Tax Appeals (BOPTA). BOPTA ordered the market value of the property reduced from \$145,700 to \$123,000. The maximum assessed value remained at \$126,790 and the assessed value was reduced from \$126,790 to \$123,000. Taxpayers appeal claiming the assessed value should be reduced to \$107,000 based on the percentage reduction ordered by BOPTA to the real market value. As explained at the conference, the court does not have authority to adjust the assessed value under these circumstances.

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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 BOPTA reduced the RMV below the MAV, the assessed value became the property's RMV.

Mr. Molony argued that a neighboring property has a similar RMV but a significantly lower MAV than the subject property. The court is unable, however, to modify the MAV because it is derived from a constitutional formula and does not allow for reductions based on uniformity or reductions in RMV.³ Although the disparity in assessed

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.

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

values 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 taxpayers.⁴ Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that the above-entitled matter be dismissed.

Dated this ____ day of August, 2000.

COYREEN R. WEIDNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON AUGUST 21, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 21, 2000.

MAV. No circumstances are presented in this case to allow the court to review the property's MAV.

⁴ Taxpayers appeal the 1998-99 value hoping it will allow them to modify the 1999-2000 maximum assessed value. Because it does not and because, more importantly, taxpayers are not timely with their appeal of the 1998-99 tax year, the court finds this year must also be dismissed.