

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Property Tax

GEORGE I. AND EARLENE L. HANSEN,)	
)	
Plaintiffs,)	
)	No. 000646E
v.)	
)	
CLACKAMAS COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-entitled case. The court discussed its motion with the parties during the case management conference held July 12, 2000. George Hansen appeared on behalf of plaintiffs. Judy Madsen and Joe Honl appeared on behalf of defendant. With the court's permission, plaintiffs submitted written arguments to the court on July 25, 2000. For ease of reference herein, the parties are referred to as "taxpayers" and "the county."

STATEMENT OF FACTS

Taxpayers appeal the 1999-2000 real market value of the property identified in Account No. 483248. The value increased from \$32,760, for the 1998-99 tax year, to \$185,620 for the 1999-2000 tax year. The county increased the value based on its determination the parcel meets the "template test" for allowing a parcel less than 80 acres to be built upon.

The assessed value of the property is only \$2,560, which represents the special assessment the property receives as forestland. Taxpayers are not challenging the assessed value of the parcel. As a result, the court questioned the parties whether

taxpayers are sufficiently aggrieved by the market value increase to maintain an action in this court because, if the court were to reduce the market value, the property's tax liability would not decrease. Mr. Hansen explained they are challenging the market value because it could be used to calculate their tax liability in the future should the county disqualify their property from special assessment. Further, taxpayers are concerned about the impact the value may have for estate planning purposes.

COURT'S ANALYSIS

ORS 305.275(1)(a)(B), (C) provides that a person has standing to appeal to the Tax Court if they are "aggrieved by and affected by an act, omission, order or determination of" the county board or county assessor. Taxpayers acknowledge that reducing the real market value will not result in any immediate tax relief. They maintain they are aggrieved, however, because the value may be used in the future to calculate their recaptured tax liability should their property become disqualified. The court interprets the statute, however, to mean a person must be presently aggrieved. This interpretation is supported by the Tax Court's decision in *Kaady v. Dept. of Rev.*, __ OTR __ (March 30, 2000). In that case, the court noted:

"In requiring that taxpayers be 'aggrieved' under ORS 305.275, the legislature intended that the taxpayer have an immediate claim of wrong. It did not intend that taxpayers could require the expenditure of public resources to litigate issues that might never arise." *Id.*, slip op at 3.

In this case, the market value *may* have an impact on a future liability of taxpayers. However, whether the property becomes disqualified in the future is an uncertain event. The court cannot litigate all cases presenting potential harm. To do so would be a waste of judicial resources. Instead, the court only adjudicates matters that may result in immediate relief. Should the property be disqualified in the future, taxpayers

may then challenge the values used to calculate the tax liability upon recapture. It is at that point taxpayers' aggrievement comes to fruition.

Mr. Hansen also argues that the increased value impacts their estate planning goals. Estate taxes and property taxes, however, are distinct taxing systems. In *Kaady*, the court stated:

“Taxpayer claims that although the assessed value is less than the real market value, an excessive real market value has potential for harm. Taxpayer argues that federal * * * estate and gift taxes would be increased. However, real market value is established for property tax purposes only. It is not used or established for the purpose of federal estate and gift taxes, or other taxes.” *Id.*, slip op at 2.

In this case, it is uncertain whether the real market value on the 1999-2000 tax roll will ever have an effect on taxpayers' tax liability. To do so, the property must first be disqualified from special assessment and, secondly, the disqualification must occur within a time frame where the 1999-2000 value is used to calculate the recaptured taxes. As mentioned above, if these two events should occur in the future, taxpayers may challenge the value at that point in time.

CONCLUSION

The court finds that taxpayers are not “aggrieved” within the meaning of ORS 305.275 by the increase to the real market value on the 1999-2000 tax roll. As a result, the court finds this case should be dismissed. Now, therefore;

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IT IS HEREBY ADJUDGED AND DECREED that the above-entitled matter
DECISION AND JUDGMENT OF DISMISSAL

be dismissed.

Dated this ____ day of August, 2000.

COYREEN R. WEIDNER
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R WEIDNER ON
AUGUST 8, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 8.200 .**