

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

K.D. AND JUDY A. THOMAS,)
)
 Plaintiffs,) No. 001095B
)
 v.)
)
 YAMHILL COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

A case management conference was held on December 4, 2000. Judy Thomas and Debi Laue participated for plaintiffs. Jay D. Lawson represented defendant. Two issues were presented: 1) the amount of additional tax due upon the disqualification of tax lot 2001, and 2) the real market value on the roll for tax lots 2000, 2001, and 2002 for the 1997-98, 1998-99 and 1999-00 tax years, while each was specially assessed as farm land.

STATEMENT OF FACTS

Plaintiffs have owned this rural land for several years. According to the defendant's representative at the December 4, 2000 case management conference, "it is some of the most prime farm land in all of Yamhill County." The land in each tax lot was earlier designated as farm land and received a special, reduced assessment.

Upon the disqualification of tax lot 2001 from farm use assessment, plaintiffs received a tax bill for an additional tax of about \$8400, which prompted this appeal. Plaintiffs agree with the disqualification action, but contest the amount of the additional "pay-back" taxes. The computation of the amount due was based on defendant's real market value (RMV) conclusions for the years preceding disqualification.

Defendant now admits that earlier RMVs on the roll are excessive due to certain market forces, including flooding, that were not recognized as factors in calculating the RMVs for the years at issue. For instance, the county's original 1999-00 RMV for tax lot 2001 was \$457,898. The county's new recommended RMV for that tax year is \$293,370. The county also recommends that the 1999-00 RMV for tax lot 2002, which recently sold for \$270,000, be reduced from \$405,926 to \$267,605.

Plaintiffs agree with defendant's recommended RMV reductions. Defendant's revised RMV recommendations for all three accounts are as follows:

1. Tax Lot 2000, Account No. 106566: specially assessed (land only)

<u>Tax Year</u>	<u>RMV</u>	<u>MAV</u>	<u>SAV</u>	<u>Revised RMV</u>
1997-98	466,964	340,884	204,231	
1998-99	461,098	351,111	208,912	
1999-00	504,153	361,644	215,178	395,732

2. Tax Lot 2001, Account No. 504946: disqualified

<u>Tax Year</u>	<u>RMV</u>	<u>MAV</u>	<u>SAV</u>	<u>Revised RMV</u>
1997-98	436,093	318,348	770	293,370
1998-99	436,093	327,898	792	293,370
1999-00	457,989	337,735	815	293,370

3. Tax Lot 2002, Account No. 504949: specially assessed

<u>Tax Year</u>	<u>RMV</u>	<u>MAV</u>	<u>SAV</u>	<u>Revised RMV</u>
1997-98	386,596	282,215	84	267,605
1998-99	386,596	290,681	86	267,605
1999-00	405,926	299,401	88	267,605

Tax lot 2001 has been disqualified, for which plaintiffs are charged with back-taxes. Tax lots 2000 and 2002 remain in special farm use assessment.

ISSUES PRESENTED

(1) For tax lot 2001, shall defendant recalculate the additional tax due using the revised RMV figures; and

(2) Does this court have the authority to make RMV revisions, as stipulated by the parties, to the roll for tax lots 2000, 2001, and 2002 for the 1997-98, 1998-99, and 1999-00 tax years, where the revised values would still lie above the specially assessed farm values?

COURT'S ANALYSIS

Where both parties stipulate to revised values, the court generally allows a correction of the RMV. First, it is important to review the effect of such a correction. Typically, assessed value (AV) is the lesser of RMV or maximum assessed value (MAV). ORS 308.146(2).¹ With specially assessed farm property, the AV is calculated according to ORS 308A.092, resulting in the SAV (specially assessed value).

(1) For the 1997-98 tax year, tax lot 2001 was taxed based on the specially assessed value (SAV) of \$770. The lot was taxed based on a SAV for the following two years as well. After taking into consideration certain market forces and some flooding that occurred, defendant recommended some revised figures to more accurately reflect the market values. However, even if defendant's recommended revised RMV of \$293,370 for the 1997-98 tax year were substituted for the RMV on the record, the property would still be assessed based on the SAV because it is lower than the revised RMV.

¹All references to the Oregon Revised Statutes are to 1999.

However, when property is disqualified from special assessment, the taxpayer must pay back-taxes on the property. See ORS 308A.703(2). The tax due includes the difference between the tax that would have been paid without special assessment and the tax that was paid with special assessment. ORS 308A.703(2). Tax lot 2001 has been disqualified and plaintiffs owe additional taxes as a result.

Defendant calculated plaintiffs' back taxes for tax lot 2001 using the values as they exist on the roll. That is, for the 1997-98 tax year, plaintiffs' additional tax includes the difference between the taxes plaintiffs paid on the SAV of \$770 and the taxes plaintiffs would have paid without special assessment. Without special assessment, plaintiffs would have paid tax on an AV of \$318,348, the lesser of the RMV and the MAV for that tax year. See ORS 308.146(2).

In contrast, if defendant had used the revised RMV of \$215,985, which would be the AV for 1997-98 because it is lower than the MAV, plaintiffs' additional tax for the 1997-98 tax year would have been lower. That is also true for the 1998-99 and 1999-00 tax years. Thus, the court requires that defendant recalculate the additional tax due for lot 2001 using the revised RMVs for each year.

(2) Plaintiffs seek a reduction in the 1999-2000 RMV (land only) of tax lot 2000 from \$504,153 for land only. Defendant's representative agreed to reduce that RMV to \$395,732 after taking into consideration market forces and flooding. That lot is specially assessed at \$215,178, a value lower than the parties' proposed reduction.

Plaintiffs also seek RMV reductions for tax lots 2001 and 2002. The revisions on the roll sought for tax lot 2001 are changes from \$436,093 to \$293,370 for the 1997-98 tax year, which was specially assessed at \$770; \$436,093 to \$293,370 for the 1998-99 tax

year, which was specially assessed at \$792; and \$457,989 to \$293,370 for the 1999-00 tax year, which was specially assessed at \$815. The revisions on the roll sought for tax lot 2002 are changes from \$386,596 to \$267,605 for the 1997-98 tax year, which was specially assessed at \$84; \$386,596 to \$267,605 for the 1998-99 tax year, which was specially assessed at \$86; and \$405,926 to \$267,605 for the 1999-00 tax year, which was specially assessed at \$88.

In order to appeal to the court, a taxpayer must be aggrieved, as defined by ORS 305.275(1)(a). When a property's AV is less than its RMV, the taxpayer is not aggrieved within the meaning of ORS 305.275. See *Parks Westsac L.L.C. v. Dept. of Rev.*, 15 OTR 50, 52 (1999).

For the years at issue, all the lots were specially assessed. Even if plaintiffs were to receive the reductions on the roll they seek, each of the revised RMVs lies above the corresponding SAVs. Plaintiffs' taxes for the years at issue would not change and they would not receive a refund. Plaintiffs' claim is not justiciable because they do not suffer a harm. See *Kaady v. Dept. of Rev.*, 15 OTR 124, 125 (2000).

Defendant's representative agreed to reduce the RMVs as stated above. Defendant is free to change its official record as appropriate. The portion of plaintiffs' appeal concerning a change in RMVs on the tax roll for lots 2000, 2001, and 2002 is dismissed as nonjusticiable.²

²If the issues were justiciable, plaintiffs' value appeals for the 1997-98 and 1998-99 tax years would likely be dismissed for failure to timely file, unless the tax court found that the difference in value was 20% or greater or "good and sufficient cause" existed for failing to timely appeal. See ORS 305.288. ORS 309.100 requires that RMV appeals be filed with the board of property tax appeals by December 31 of the tax year to which the appeal applies.

CONCLUSION

IT IS THE DECISION OF THIS COURT that defendant recalculate the additional tax due for lot 2001 using the revised RMVs for the 1997-98, 1998-99, and 1999-00 tax years.

IT IS FURTHER THE DECISION OF THIS COURT that the portion of plaintiffs' appeal concerning a change in RMVs on the tax roll for lots 2000, 2001, and 2002 is dismissed as nonjusticiable.

Dated this ____ day of February, 2001.

JEFF MATTSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, 1241 STATE STREET, FOURTH FLOOR, SALEM, OR 97301-2563. 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 JEFF MATTSON ON FEBRUARY 26, 2001. THE COURT FILED THIS DOCUMENT ON FEBRUARY 26, 2001.