

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

KITFU CHAN,)
)
 Plaintiff,) No. 010142C
)
 v.)
)
 WASHINGTON COUNTY ASSESSOR,)
)
 Defendant.)
) **DECISION**

By his Complaint plaintiff has asked the court to reduce the assessed value for the 2000-01 tax year, to reallocate the real market value between land and improvements for 2000-01, and to reduce both the real market and assessed values for the 1999-00 tax year. A hearing was held by telephone May 17, 2001, to discuss the appeal. Plaintiff appeared on his own behalf. Defendant appeared through Mr. Tony Rosatti, a county appraiser.

STATEMENT OF FACTS

The subject property is plaintiff's personal residence, which he purchased in May 2000 for \$114,000. The property is identified in the County Assessor's records as Account No. R2081316. Plaintiff petitioned the County Board of Property Tax Appeals (board) and succeeded in having the real market value reduced from \$135,880 to \$114,000. The reduction came largely from a decrease in the real market value of the land, which was reduced from \$54,630 to \$34,310. Plaintiff is in agreement with the board's reduction in real market value for 2000-01. Plaintiff proposes a recalculation of the assessed value for the 2000-01 tax year under which the board's reduced value of

\$114,000 would be multiplied by the change property ratio of .77 to arrive at an assessed value of \$87,780. The reduction for the prior year (1999-00) is based on a redetermination of the land value (there was no improvement value on the rolls in 1999 because the house was not completed). The parties agree that the 1999-00 roll value of \$47,500 (real market value) is excessive and should be approximately \$28,000.

COURT'S ANALYSIS

The determination of property values for tax purposes is in most cases largely a matter of mathematical calculations as a result of changes in Oregon's constitution and statutes brought about by Measure 50. Under the law, assessed value is the lesser of the property's maximum assessed value or the property's real market value. ORS 308.146(2). Maximum assessed value, in turn, is the greater of "103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year." ORS 308.146(1). Finally, and of particular relevance in this case, when a home is added to an unimproved lot, maximum assessed value is the sum of the maximum assessed value of the lot as determined under ORS 308.146 (103 percent of the property's prior year assessed value) and the product of the real market value of the new property (the house) "multiplied by the ratio of the average maximum assessed value over the average real market value for the assessment year." ORS 308.153(1)(b). The ratio referred to in ORS 308.153(1)(b) is commonly known as the *change property ratio*. Under that formulation, the assessed value in the present case is calculated as follows:

$$[\$36,100 \text{ (1999 AV)} \times 1.03] + [\$79,690 \text{ (value of new property - the house)} \times .77 \text{ (CPR)}] = \$98,540 \text{ (rounded)}.$$

This is the number appearing on the tax rolls following the board's adjustments. The law does not provide for the methodology plaintiff proposes. However, a reduction in the real

market value of the land for the 1999-00 tax year would give plaintiff all the relief he seeks because a drop in the 1999-00 land real market value produces a corresponding reduction in assessed value and that reduction flows through to the 2000-01 tax year. See, e.g., ORS 308.146 and 308.153. The question thus becomes whether the court can accept a stipulated reduction in the real market value of plaintiff's land for tax year 1999-00.

The court cannot grant relief for the 1999-00 tax year unless the provisions of ORS 305.288 are satisfied. See *Seifert v. Dept. of Rev.*, 14 OTR 401 (1998). ORS 305.288(1) allows the court to reduce the value of certain property when there is an error in the real market value of at least 20 percent, which there is in this case. However, the *20-percent rule* is limited to "property [that] was or is used primarily as a dwelling (or is vacant) * * *." ORS 305.288(1)(a). In this case, the property consisted of unimproved land as of January 1, 1999, which precludes the application of subsection (1). The only other avenue under which the court can accept a stipulated agreement reducing the land value is subsection (3) of ORS 305.288,¹ which essentially requires the taxpayer to establish a statutorily valid reason for not pursuing an appeal under ORS 309.100 and 305.275. Plaintiff is unable to establish good and sufficient cause for not pursuing the statutory right of appeal for the 1999-00 tax year because he did not own the property until after the time for petitioning the board expired. Thus, the court is foreclosed from acting on the basis of subsection (3).

CONCLUSION

¹ Subsection (3) of ORS 305.288 allows the court to reduce the value of property when warranted by the evidence if the taxpayer can establish "good and sufficient cause" for the failure to pursue the statutory right of appeal by first petitioning the county board and timely appealing the board's decision to the court. The term "good and sufficient cause" is defined as "an extraordinary circumstance that is beyond the control of the taxpayer * * * and that causes the taxpayer * * * to fail to pursue the statutory right of appeal." ORS 305.288(5)(b)(A).

The calculation of assessed value for the 2000-01 tax year was done in accordance with applicable law. Any relief in this case hinges on a reduction in the real market value of the land for the 1999-00 tax year and the court lacks authority to grant any relief under ORS 305.288 because the 20 percent rule set forth in subsection (1) is inapplicable and there is no good and sufficient cause as defined in subsection (5).²

IT IS THE DECISION OF THE COURT that plaintiff's appeal is denied.

Dated this _____ day of May, 2001.

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 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 DAN ROBINSON ON MAY 23, 2001. THE COURT FILED THIS DOCUMENT ON MAY 23, 2001.

²Plaintiff intends to pursue the matter administratively by petitioning the Oregon Department of Revenue under ORS 306.115 based on the parties' agreement.

DECISION