

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Small Claims
Property Tax

EDWARD GANEM,)	
)	
Plaintiff,)	No. 010373E
)	
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 May 15, 2001. Edward Ganem appeared on his own behalf. Beth Fast, Appraiser, appeared on behalf of defendant (the county).

STATEMENT OF FACTS

Mr. Ganem is appealing the 2000-01 taxes on his home.¹ For the 2000-01 tax year, the county assigned the property a real market value of \$164,900 and an assessed value of \$112,990. Mr. Ganem explained at the conference that he has been trying to sell his property for over a year. During that time, he has continued to reduce the list price on the home. Currently, the home is listed at \$145,000. His real estate broker advised him that she will only list the home again if he agrees to reduce the price to \$139,900. The only offer Mr. Ganem has received on the home was for \$137,900.

According to Mr. Ganem, potential buyers of the home turn away once they discover the property's tax liability. Ms. Fast advised the court that the subject property competes with homes in an abatement area where new homes worth at least \$159,900 are only

¹ The home is identified in the county's records as Account No. R289083.
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taxed on the value of the land for the first ten years. Buyers are drawn to these properties because of the lesser tax liabilities, which makes it difficult for Mr. Ganem to market his own property. As a result, he appeals the property's tax liability to this court seeking a reduction.

COURT'S ANALYSIS

As discussed at the case management conference, the court cannot consider Mr. Ganem's appeal because it cannot order the taxes reduced under the facts presented.

Oregon voters passed by referendum Measure 50 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). Due to increasing values, Oregon voters chose to limit the growth of assessed values. In doing so, Measure 50 created the concept of "maximum assessed value" (MAV). For the 1997-98 tax year, which was the implementation year for Measure 50, the MAV was calculated by taking the property's 1995-96 RMV and subtracting ten percent. Or Const, Art XI, § 11(1)(a).² Measure 50 provides that, for each successive year, the MAV may increase no more than three percent a year. Or Const, Art XI, § 11(1)(b); *see also* ORS 308.146(1).³ The measure further requires that a property be taxed at the lesser of its MAV or its RMV. Or Const, Art XI, § 11(1)(f).⁴

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² *See also* Or Laws 1997, ch 541, § 2(2), *compiled as a note after* ORS 308.146.

³ All references to the Oregon Revised Statutes are to 1999.

⁴ *See also* ORS 308.146(2) and Or Laws 1997, ch 541, § 2(3), *compiled as a note after* ORS 308.146.

For tax year 2000-01, the MAV of the subject property was \$112,990, and the RMV was \$164,900. Because the MAV was less than the RMV, the property's tax liability was calculated based on the property's MAV of \$112,990.

Mr. Ganem discussed how the tax liability on the subject property is high when compared to other properties and that the higher liability is impacting his ability to sell the property. The tax liability, however, was calculated based on the property's MAV. The MAV is derived by a calculation and the court is unable to modify the subject property's MAV.⁵ To lower the property's tax bill, Mr. Ganem would need to demonstrate the property's RMV was near or below the MAV of \$112,990. No such allegation has been made. As a result, the court finds the case should be dismissed. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that this matter be dismissed.

Dated this ____ day of May, 2001.

COYREEN R. WEIDNER
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON
MAY 18, 2001. THE COURT FILED THIS DOCUMENT ON MAY 18, 2001.**

⁵ 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 MAV. No circumstances are presented in this case to allow the court to review the property's MAV.