

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

RICHARD L. MCBRIDE and LINDA D. MCBRIDE,	)	
	)	
	)	
Plaintiffs,	)	No. 010526C
	)	
v.	)	
	)	
MULTNOMAH COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>SECOND AMENDED DECISION OF STIPULATION</b>

This matter is before the court on Defendant's request that the court reconsider it's August 29, 2001, Amended Decision of Stipulation to conform with the law. The court spoke with the parties by telephone on October 3, 2001, to discuss the request. For the reasons set forth below, the court is granting Defendant's request. The unusual circumstances of this case necessitate a somewhat lengthy discussion.

The parties' basic agreement, conveyed to the court in writing on July 27, 2001, was that the exception value of \$49,110 should be removed from the assessment and tax rolls. The exception value of Plaintiffs' home for the 2000-01 tax year was based on the mistaken belief that Plaintiffs had remodeled portions of their home. The agreement further provided "[t]his would result in a corresponding reduction in the assessed value." The court issued a Decision ordering the removal of the exception value and, erroneously, as it turns out, reduced the real market value (RMV) by that same amount. Defendant's representative telephoned the court questioning the reduction in RMV and the court convened a telephone hearing on August 20, 2001, to discuss Defendant's concerns. The parties continued to agree that the exception value of \$49,110 should be removed but that RMV was not at issue and should not be adjusted. In an effort to clarify the matter and

avoid further misunderstanding the court inquired as to the impact on assessed value (AV) flowing from the removal of the exception value, as mentioned in the parties' original written agreement. The court asked whether the AV would be reduced by the full amount of the exception value (from \$356,950 to \$307,840) and the parties agreed that it would. Based on that agreement the court issued an Amended Decision of Stipulation removing the exception value of \$49,110 and reducing the AV from \$356,950 to \$307,840.

Bob Alcantara, who is a supervisor working in the Assessor's Office then contacted the court in writing and indicated that the parties agreed to remove the exception value of \$49,110 but that the court's reduction in assessed value (AV) "does not accurately reflect what occurred to the account." (Def's Sept. 12, 2001, Ltr.) The letter goes on to state that "[t]he exception value is multiplied by the change property ratio and then added to the previous year's MAV times 3%." *Id.* The letter then provides the mathematical calculations applicable to the account and concludes with an opinion that the "AV should be reduced by \$35,770<sup>1</sup> as the assessed [sic] is not affected by the full weight of the exception value only a percentage of it." *Id.*

Mr. McBride responded by letter dated October 1, 2001, stating "I disagree with [Mr. Alcantara's] assessment. We have already agreed to remove the exception in the amount of \$49,110.00 per [the court's] decision August 29, 2001. \* \* \* We already have a deal that \* \* \* was a compromise for both parties." (Ptfs' October 1, 2001, Ltr.)

The court spoke with Messrs. McBride and Alcantara by telephone on October 3, 2001. There was much discussion about the meaning of Mr. Alcantara's September 12 letter and the court's Amended Decision, as well as the application of relevant

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<sup>1</sup>Exception value = 49,110 x .7282 (change property ratio) = 35,770.

constitutional and statutory provisions related to Measure 50. The parties continued to agree that the entire amount of the exception value should be removed from the rolls. Mr. McBride understandably had some difficulty comprehending the methodology used to adjust the “value” of property when it is remodeled and how that process is undone when, as in this case, it is determined that there was no remodel. The distinction between RMV and AV was the primary stumbling block. Mr. McBride’s other, and perhaps more significant, concern was that his value and taxes will be higher than that of his neighbors’, regardless of how this case is resolved, even though the homes are similar.

Plaintiffs’ concerns were addressed at length during the October 3 hearing. Briefly, the discrepancy in values between the subject property and other homes in the area relates to the issue of uniformity and that principle was abandoned by the implementation of Measure 50. See *e.g.*, *Ellis v. Lorati*, 14 OTR 525, 535 (1999) (noting that nonuniformity in the property tax system will result under Measure 50 and the constitutional amendment brought about by that measure excuses itself from complying with other constitutional provisions requiring uniformity).

As to the adjustments to the “value” necessary to implement the parties’ agreement to remove the exception value of \$49,110, the court is convinced that the procedure outlined in Defendant’s September 12, 2001, letter comports with applicable law and produces the correct result. The “exception value” of \$49,110 is the RMV originally added by Defendant to the assessment and tax rolls based on Defendant’s mistaken belief that Plaintiffs had remodeled the kitchen. That value was adjusted by the ratio provided in ORS 308.153(1)(b) (1999)<sup>2</sup> to arrive at the additional amount to be added to MAV, which was

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<sup>2</sup>ORS 308.153 provides in relevant part:

first adjusted upwards three percent as required by statute. The numbers appear in the accompanying footnote.<sup>3</sup> Removing the exception MAV of \$35,770 from the previous MAV total of \$356,950 results in a MAV of \$321,180, which is three percent above the previous year's MAV (and AV) of \$311,830. See ORS 308.146(1).<sup>4</sup>

IT IS THE DECISION OF THE COURT that the assessment and tax rolls for the property described as Multnomah County Assessor's Account No. R230271 shall be corrected for the 2000-01 tax year to remove the exceptions value of \$49,110.

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IT IS FURTHER DECIDED that the county shall refund any excess taxes paid following this correction, with statutory interest, pursuant to ORS 311.806 and 311.812.

Dated this \_\_\_\_ day of October, 2001.

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"(1) If new property is added to the assessment roll or improvements are made to property as of January 1 of the assessment year, the maximum assessed value of the property shall be the sum of:

"(a) The maximum assessed value determined under ORS 308.146; and

"(b) The product of the value of the new property or new improvements determined under subsection (2)(a) of this section multiplied by the ratio of the average maximum assessed value over the average real market value for the assessment year."

In short, the value added to the MAV was the RMV of the remodel multiplied by the ratio of the average MAV to average RMV of similarly situated property.

<sup>3</sup>  $311,830 (1999 \text{ MAV}) \times 1.03 (\text{ratio}) = 321,180 (2000 \text{ MAV before exception RMV added}) + [(49,110 \times .7282) = 35,770] = 356,950 (\text{rounded}).$

<sup>4</sup>ORS 308.146(1) provides:

"The maximum assessed value of property shall equal 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, whichever is greater."

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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 OCTOBER 15, 2001. THE COURT FILED THIS DOCUMENT ON OCTOBER 15, 2001.**