

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

EDWARD J. AND VICTORIA S. MARIHART,)	
)	
Plaintiffs,)	No. 010570E
)	
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 appeal. The court discussed its motion with the parties during the case management conference held June 20, 2001. Edward J. Marihart appeared on behalf of plaintiffs (taxpayers). Fred Dodd, Appraiser II, appeared on behalf of defendant (the county).

Taxpayers appeal the 2000-01 real market value (RMV) assigned to the subject property.¹ The county assigned the property a RMV of \$174,290 and a maximum assessed value (MAV) of \$133,931. Taxpayers appeal claiming the RMV should be reduced to \$165,000. Taxpayers acknowledge that reducing the RMV will not lower their tax liability because the property is assessed according to its MAV. They appeal based on principle believing the correct RMV should be reflected on the roll.

ORS 305.275(1)(a)(B) provides that a person must be “aggrieved by and affected by” an order of the board before filing an appeal with this court. Earlier cases have ruled that, where there is no tax consequence, a taxpayer is not aggrieved and may not maintain an action in this court. See *Parks Westsac LLC v. Dept. of Rev.*, 15 OTR 50, 52 (1999)

¹ The subject property is identified in the county’s records as Account No. 00210989.

(holding that a taxpayer is not aggrieved within the meaning of ORS 305.275 as long as the “property’s maximum assessed value is less than its real market value[.]”)

Mr. Marihart expressed concern about future changes in the property tax system and how failing to correct the RMV now may impact future years. The Regular Division of the Tax Court already addressed this concern in *Kaady v. Dept. of Rev.*, 15 OTR 124 (2000). In that case, the court stated:

“Taxpayer is also concerned that the statutes could be changed in the future and real market value be used for a new base such as it was under Measure 50. However, this is pure speculation, particularly in light of the fact that Measure 50 was a constitutional amendment as a result of a public initiative. 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.* at 125.

Because no tax consequences would result if the court granted taxpayers’ appeal, the court finds taxpayers are not aggrieved and, therefore, lack standing. As a result, the court concludes the case should be dismissed. Now, therefore;

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

Dated this ____ day of July, 2001.

COYREEN R. WEIDNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON JULY 5, 2001. THE COURT FILED THIS DOCUMENT ON JULY 5, 2001.