

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

JOHN L. AND DELORES M. CADY,)	
)	
Plaintiffs,)	No. 010792E
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on defendant's Motion to Dismiss, which was filed as part of its Answer on May 31, 2001. The court discussed the motion with the parties during the case management conference held July 20, 2001. John L. Cady appeared on behalf of plaintiffs. Bob Alcantara, Appraiser, appeared on behalf of defendant (the county). The county's motion asks the court to dismiss the appeal because plaintiffs failed to file an appeal with the county board before coming to this court. The county further claims the exceptions found in ORS 305.288 are not present. During the conference, the court raised the issue of whether plaintiffs were aggrieved by the alleged overvaluation of their property. If not, plaintiffs lack standing in this court.

STATEMENT OF FACTS

Plaintiffs purchased the subject property in September 2000 for \$155,000.¹ For the 2000-01 tax year, the county assigned the property a real market value (RMV) of \$165,210 and an assessed value of \$128,620. Plaintiffs filed their appeal claiming the RMV should be lowered to \$155,000, with a similar reduction occurring in the assessed value.

COURT'S ANALYSIS

¹ The property is identified in the county's records as Account No. R116679.
DECISION AND JUDGMENT OF DISMISSAL

In May 1997, Oregon voters passed by referendum Measure 50 (M50). This measure substantially modified the property tax system in the state of Oregon. Prior to M50, a property was taxed at its RMV. Due to increasing values, Oregon voters chose to limit the growth of assessed values. In doing so, M50 created the concept of “maximum assessed value” (MAV). For the 1997-98 tax year, which was the implementation year for M50, the MAV was calculated by taking the property’s 1995-96 RMV and subtracting ten percent. Or Const, Art XI, § 11(1)(a).² M50 provides that, for each successive year, the MAV will generally increase no more than three percent a year. Or Const, Art XI, § 11(1)(b); see *also* ORS 308.146(1). The measure also requires counties to maintain a record of the property’s RMV because a property is to be taxed at the lesser of its MAV or its RMV. Or Const, Art XI, § 11(1)(f).³

In this case, the MAV of the property is substantially less than its RMV. Even if the court ordered the RMV reduced as requested by plaintiffs, the reduction would not be sufficient to result in any tax savings to plaintiffs.⁴ ORS 305.275(1)(a)(B) provides that a person must be “aggrieved by and affected by” an act of the county 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) (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.”) As a consequence, the court finds the

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

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

⁴ Mr. Alcantara confirmed the property would continue to be taxed at its MAV if the court ordered the RMV reduced to \$155,000.

case should be dismissed for lack of aggrievement. 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 24, 2001. THE COURT FILED THIS DOCUMENT ON JULY 24, 2001.**