

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

VELMA M. MILLER,)
)
 Plaintiff,) No. 010816E
)
 v.)
)
 MARION COUNTY ASSESSOR,)
)
 Defendant.) **DECISION 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 July 24, 2001.

STATEMENT OF FACTS

Ms. Miller appeals the 1996-97 through 2000-01 real market values assigned to the property identified as Account No. R24576. For the 2000-01 tax year, the county assigned the property a real market value (RMV) of \$272,490. Ms. Miller recently sold the home for \$212,000. She appeals claiming the 2000-01 RMV should be reduced to \$212,000 and argues for a similar reduction for the earlier years.

COURT'S ANALYSIS

Tax Years 1996-97; 1997-98

As an initial matter, the court must explain that it lacks authority to consider tax years prior to 1998-99 due to the length of time between the tax year and the filing of this appeal. The Oregon legislature has developed an appeals system for taxpayers to follow when challenging the assessed and real market values assigned to their properties. The first step in the appeal process is to a county board. Taxpayers are required to file appeals with the appropriate county board by December 31 of the current tax year. ORS

309.100(2).¹ If a taxpayer fails to file their appeal each year by the December 31 deadline, their appeal rights are generally lost. The legislature recognized situations may exist that prevent a taxpayer from timely appealing to the county board. As a result, the legislature granted the court authority to review untimely appeals under certain circumstances. This authority is limited, however, to the current tax year and the “two tax years immediately preceding the current tax year.” ORS 305.288(1), (3). Therefore, the court’s jurisdiction in this case only extends to the 1998-99, 1999-2000, and 2000-01 tax years.²

Tax Years 1998-99, 1999-2000, and 2000-01

For tax years 1998-99, 1999-2000, and 2000-01, the court lacks authority to consider Ms. Miller’s appeal because she is not “aggrieved” for these years.

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).³ M50 provides that, for each successive year, the MAV will generally increase no more than three percent a year. Or Const, Art XI, §

¹ All references to the Oregon Revised Statutes are to 1999.

² The court expresses no opinion as to whether the limited circumstances under which the court may consider untimely appeals for tax years 1998-99, 1999-2000, 2000-01 under ORS 305.288 are present in this case because it finds these years should be dismissed in any case for the reasons set forth below.

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

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).⁴

In this case, the MAV of the property is less than its RMV. Even if the court ordered the RMV reduced as requested by Ms. Miller, the reduction would not be sufficient to result in any tax savings to her.⁵ ORS 305.275(1)(a) 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 case should be dismissed for lack of aggrievement. Now, therefore;

IT IS THE DECISION OF THIS COURT that the above-entitled matter be dismissed.

Dated this _____ day of July, 2001.

COYREEN R. WEIDNER
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 THIS DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

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

⁵ Mr. Brown, defendant's representative, confirmed the property would continue to be taxed at its MAV if the court ordered the RMV reduced as requested by Ms. Miller.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON JULY 27, 2001. THE COURT FILED THIS DOCUMENT ON JULY 27, 2001.