

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

CODIGA CONSTRUCTION, INC.,)
)
Plaintiff,) No. 011252C
)
v.)
)
YAMHILL COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

Plaintiff seeks a reduction in the maximum assessed value of certain real property for the 2001-02 tax year. The parties agree the value should be reduced. A hearing was held to consider the matter. Ms. Julie Codiga appeared for Plaintiff. Mr. Roy Reel appeared for Defendant. After reviewing the case, the court has concluded the agreement cannot be approved.

STATEMENT OF FACTS

Plaintiff owns two adjoining parcels of land that are nearly identical to one another. The real market values for property tax purposes are identical for the 2001-02 tax year (\$50,850). The maximum assessed and assessed values differ. The property identified as tax lot 9100 (Pin # R3219AB 09100) has a maximum assessed and assessed value of \$26,221. Tax lot 9200 (Pin # R3219AB 09200) has a maximum assessed and assessed value of \$12,820. Historically the real market values in assessor's records for the two properties have not coincided. In 1995 the real market value for tax lot 9100 was \$27,462. The real market value for tax lot 9200 was \$12,656.

The Complaint was filed on December 26, 2001. The parties agree that the maximum assessed value of tax lot 9100 should be reduced to \$12,820 to match tax lot 9200. A signed agreement to that effect was submitted to the court on January 24,
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2002.

COURT'S ANALYSIS

Measure 50, approved by the voters of Oregon in 1997, amended the state's constitution to reduce assessed values and limit future growth in those values. See *generally*, Or Const, Art XI, § 11. This was accomplished through the creation of a "maximum assessed value" which, for the 1997-98 tax year, could not exceed 90 percent of the property's real market value for tax year 1995-96. *Id.* at § 11(1)(a)¹. Moreover, section 11 provides that assessed value cannot exceed the property's real market value. *Id.* at § 11(1)(f). The cap on future growth in values is set out in subsection (1)(b), which provides: "[f]or tax years beginning after [1997-98], the property's maximum assessed value shall not increase by more than three percent from the previous tax year."

These provisions have been codified as ORS 308.146². Subsection (1) of the statute provides a formula for determining maximum assessed value applicable to tax years after 1997-98. It reads as follows:

"[t]he 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."

The statute further provides that assessed value is the lesser of maximum assessed value or real market value. ORS 308.146(2).

Under this scheme, maximum assessed value is the product of a mathematical

¹ Section 11(1)(a) reads:

"For the tax year beginning July 1, 1997, each unit of property in this state shall have a maximum assessed value for ad valorem property tax purposes that does not exceed the property's real market value for the tax year beginning July 1, 1995, reduced by 10 percent."

² All references to the Oregon Revised Statutes are to 1999.

calculation initially (for tax year 1997-98) tied to the property's real market value for the 1995-96 tax year and increased each year following 1997-98 at a rate of three percent or less. Because maximum assessed value is simply a mathematical calculation, it cannot be reduced in tax year 2001-02 to achieve uniformity between two essentially identical properties, which is what the parties have asked the court to do. In fact, section 11 exempts the provisions of the new law from the uniformity requirements of the state's constitution. Or Const, Art XI, § 11. The court has previously stated

“* * * in one sense [maximum assessed value] is somewhat artificial or arbitrary. That is inherent in the overall scheme of section 11 [of the Oregon Constitution]. The concept may, over time, result in various degrees of nonuniformity in the property tax system. Section 11(18) contemplates this and excuses itself from complying with other constitutional provisions requiring uniformity, specifically Article IX, section 1, and Article I, section 32.” *Ellis v. Lorati*, 14 OTR 525, 535 (1999).

The disparity in this case is due to differing real market values for the land in tax year 1995-96. Tax lot 9100 was valued at \$27,462 and tax lot 9200 at less than half that number (\$12,656). These numbers were used as the starting point in setting maximum assessed values for 1997-98 and the maximum assessed value since then has simply been increased three percent per year. The court cannot reduce the larger maximum assessed value of lot 9100 to bring it in line with that of lot 9200. To do so would violate the law.

CONCLUSION

The court cannot lower the maximum assessed value of tax lot 9100 (Pin # R3219AB 09100) to make it match the value of lot 9200 (Pin # R3219AB 09200), regardless of the parties' agreement. Maximum assessed value is a creature of statute (and constitution) and is derived by simple mathematical calculations independent of market forces. It cannot be changed arbitrarily, even to produce uniformity. Now, therefore,

IT IS THE DECISION OF THIS COURT that the relief requested by the parties is denied. The maximum assessed value of the disputed property shall remain undisturbed.

Dated this _____ day of April, 2002.

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 APRIL 29, 2002. THE COURT FILED THIS DOCUMENT ON APRIL 29, 2002.