

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

THOMAS A. BUSHMAN and JILL A. BUSHMAN,)	
)	
Plaintiffs,)	No. 020205C
)	
v.)	
)	
WASHINGTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs have appealed the real market value of certain real property identified in the Washington County Assessor's records as Account No. R2010308 for the 2001-02 tax year. A case management conference was held on July 31, 2002. Thomas Bushman appeared for the Plaintiffs. Tony Rosatti appeared for the Defendant.

STATEMENT OF FACTS

Plaintiffs have asked the court to reduce the real market value from \$435,970 to \$420,970. The basis for the request is a rezoning of the property adjacent to the subject and the subsequent construction of a multi-unit residential structure(s). The maximum assessed and assessed values for the tax year at issue are \$347,970. A reduction in the real market value to \$420,970 would not reduce the assessed value and as a result Plaintiffs' property taxes would not be reduced.

COURT'S ANALYSIS

Plaintiffs' right of appeal is found in ORS 305.275¹. That statute requires that the party appealing be "aggrieved." ORS 305.275(1)(a). This court has previously ruled that "[i]n requiring that taxpayers be 'aggrieved' under ORS 305.275, the legislature intended that the taxpayer have an immediate claim of wrong." *Kaady v. Dept. of*

¹ All references to the Oregon Revised Statutes are to 2001.
DECISION CASE NO. 020205C

Revenue, 15 OTR 124, 125 (2000). This has been interpreted by the court to mean that a successful appeal will reduce taxes. In *Kaady*, the real market value was \$305,866 and taxpayer sought a reduction to \$260,000. The assessed value was \$244,987. Taxes are based on assessed value. The court granted the defendant's motion to dismiss in *Kaady*, based on an earlier decision in *Parks Westsac L.L.C. v. Dept. of Rev.*, 15 OTR 50 (1999). In *Parks Westsac*, the court ruled that "[s]o long as the property's maximum assessed value is less than its real market value, taxpayer is not aggrieved." *Parks Westsac*, 15 OTR at 52.

In the instant appeal, Plaintiffs' requested reduction would not impact their taxes. Were the court to reduce the real market value to \$420,970, the assessed value would remain unchanged at \$347,970. This is because assessed value is the lesser of the property's real market or maximum assessed value. ORS 308.146(2). Maximum assessed value, in turn, is based on a mathematical formula which, beginning with the 1997-98 tax year, was 90 percent of the property's real market value for tax year 1995-96. Or Const, Art XI, § 11(1)(a). For tax years following 1997-98, the maximum assessed value cannot increase by more than 3 percent. Or Const, Art XI, § 11(1)(b). That limitation has been more specifically defined by the legislature as follows:

"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." ORS 308.146(1).

///

///

The maximum assessed and assessed values for the prior tax year were \$337,840. The statutorily required 3 percent increase brought that value to \$347,970. It matters

not whether Plaintiffs' actual property value (market value) declined as a result of the nearby development because maximum assessed and assessed values have no relationship to real market value.

CONCLUSION

Because there would be no tax consequences were the court to grant Plaintiffs' appeal, the court concludes that Plaintiffs' are not aggrieved, as required by ORS 305.275. Accordingly, Plaintiffs' Complaint must be dismissed. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs' Complaint is dismissed.

Dated this _____ day of August, 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 AUGUST 22, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 22, 2002.