

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DEBORAH BYRNE,)	
)	
Plaintiff,)	No. 020417F
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant's motion to dismiss, filed with its Answer on June 10, 2002, requesting that the Complaint be dismissed. The court discussed the motion with the parties during the case management conference held August 5, 2002.

Plaintiff appeals the real market value of her home located at 224 SE 15th Avenue in Portland for tax year 2001-02. The home is partially exempt from taxation for a period of ten years. There are seven years left of the partial exemption. Any reduction Plaintiff is requesting is significantly above the maximum assessed value of the property. Even if Plaintiff should succeed in her claim, she would be entitled to no relief. The court finds it has not been presented with a justiciable controversy and must dismiss the case.

A justiciable controversy is a matter that is appropriate for judicial review. The term refers to a "real and substantial controversy which is appropriate for judicial determination, as distinguished from [a] dispute or difference of contingent, hypothetical or abstract character." *Black's Law Dictionary* 865 (1990 6th ed). A justiciable controversy does not involve a dispute that is purely academic or moot.

Plaintiff presents a case that lacks a remedy.¹ Consequently, the case is not appropriate or ripe for judicial review. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this _____ day of August, 2002.

SALLY L. KIMSEY
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 SALLY L. KIMSEY ON AUGUST 27, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 27, 2002.

¹ Plaintiff's concern is that a real market value that may be too high in tax year 2001-02 will affect the taxes owing on the property when the property loses its partial exemption in seven years. However, that appears not to be the case. The relevant portions of ORS 308.156 (2001) provide that:

"(4)(a) If property was subject to exemption, partial exemption or special assessment as of the January 1 assessment date of the preceding assessment year and is disqualified from exemption, partial exemption or special assessment as of the January 1 of the current assessment year, the property's maximum assessed value shall be established under this section.

"* * * * *

"(5) The property's maximum assessed value shall be the sum of:

"(a) The maximum assessed value determined under ORS 308.146 that is allocable to that portion of the property not affected by an event described in subsections (1), (2), (3) or (4)(a) of this section; and

"(b) The product of the value of that portion of the property that is affected by an event described in subsections (1), (2), (3) or (4)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year in the same area and property class."

