

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

KIP S. SCHONING,)
)
 Plaintiff,) No. 020623A
)
 v.)
)
 BENTON COUNTY ASSESSOR,)
)
 Defendant.) **DECISION AND JUDGMENT**

Kip S. Schoning has appealed, for the 2001-02 tax year, the assessment of property located in Benton County and identified by Account No. 152565. Mr. Schoning appeared. Douglas Hillpot, of the assessor's staff, responded.

STATEMENT OF FACTS

Mr. Schoning has appealed the real market value carried on the roll for his property, which is \$144,133. He reasons that \$100,000 is a more accurate estimate of its real market value. It is assessed at \$104,811.

COURT'S ANALYSIS

In this case there is less than a 5 percent difference between the property's assessed value, \$104,811, and Mr. Schoning's estimate of its real market value, \$100,000. Such a variance is too fine a distinction for the court to determine on the basis of the proofs available to the parties. In *Price v. Dept. of Rev.*, 7 OTR 18, 25 (1977), this court observed that a difference of 10 percent or less is within the generally accepted range of value.

A much larger gap separates the real market value on the roll, \$144,133, and Mr. Schoning's estimate of real market value, \$100,000. However, this point has no practical effect on Mr. Schoning's tax burden. His taxes are calculated from assessed

value, and not real market value. ORS 308.232.¹ In a previous decision, *Kaady v.*

Dept. of Rev., 15 OTR 124, 125 (2000) this court reasoned:

"Taxpayer is also concerned that the statutes could be changed in the future and real market value be used for a new base such as it was under Measure 50. However, this is pure speculation, particularly in light of the fact that Measure 50 was a constitutional amendment as a result of a public initiative. In requiring that taxpayers be "aggrieved" under ORS 305.275, the legislature intended that the taxpayer have an immediate claim of wrong. It did not intend that taxpayers could require the expenditure of public resources to litigate issues that might never arise."

CONCLUSION

When the real market value carried on the roll is of consequence to Mr. Schoning this court will address the problem. As matters now stand, however, he has no injury that this court can redress.

Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that this appeal is dismissed.

Dated this _____ day of July, 2002.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON JULY 25, 2002. THE COURT FILED THIS DOCUMENT ON JULY 25, 2002.

¹ All references to the Oregon Revised Statutes are to 2001.