

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

GARTH C. EVERHART,)
)
 Plaintiff,) No. 020818F
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on Defendant's motion to dismiss, made at the case management conference on July 30, 2002, requesting that the Complaint be dismissed.

Plaintiff appeals only the assessed value of his single family residence for tax year 2001-02. Plaintiff built the home; it was completed in 1998. When valuing the home, Defendant overstated the square footage. As a result of two earlier appeals, Defendant corrected its records and reduced the real market value. Plaintiff now asks for a reduction in the assessed value so the change property ratio will be consistent with other properties.

Assessed value is the lower of real market value and maximum assessed value. ORS 308.146(2).¹ Typically, maximum assessed value is 103 percent of the prior year's assessed value. See ORS 308.146(1). Except for the exceptions enumerated in ORS 308.146(3), the calculation is made mandatory by the use of the word "shall" in the statute. See ORS 308.146(1). Among the exceptions to the calculation is when "[t]he property is new property or new improvements to property." ORS 308.146(3)(a).

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

Thus, the time to appeal the assessed value would have been when the property was first added to the account.

In a similar situation this court held:

"This situation highlights the need for property owners to audit the government's property tax records. Most taxpayers are familiar with our income tax systems under which *taxpayers* keep the records and assess the tax, and the government audits for accuracy and correctness. In contrast, the property tax system requires the *government* to keep the records and assess the tax, and the taxpayer audits for accuracy and correctness. Both systems impose time limits on the right to audit. A failure to audit and challenge the assessment within the time limit will result in a loss by the party responsible for the audit." *Taft Church v. Dept. of Rev.*, 14 OTR 119, 122 (1997).

The time to appeal the assessed value would have been immediately after construction.

Now, therefore,

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

Dated this _____ day of September, 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 SEPTEMBER 20, 2002. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 20, 2002.