

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DONALD S. HARNER, Trustee; KATHRYN)
W. HARNER, Trustee; HARNER FAMILY)
LIVING TRUST,)
)
Plaintiffs,) TC-MD 030128E
)
v.)
)
DESCHUTES COUNTY ASSESSOR,)
)
Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on its own motion to dismiss, finding it lacks authority to provide Plaintiffs with the relief requested. The court discussed its motion with the parties during the case management conference held April 29, 2003. Donald Harner appeared on behalf of Plaintiffs. Theresa Maul appeared on behalf of Defendant.

STATEMENT OF FACTS

The subject property is a parcel of land identified in Defendant's records as Account 151009AA00907. In 2000, the parcel was platted and the developer listed it for sale at \$122,900. For the 2001-02 tax year, Defendant treated the parcel as new property and created a new maximum assessed value (MAV) for the property. Defendant assigned the property a real market value (RMV) of \$122,900, based on the listing price, and multiplied it by the changed property ratio of 79 percent to arrive at a 2001-02 MAV of \$97,091. The developer did not challenge the 2001-02 values.

In February 2002, Plaintiffs purchased the subject parcel for \$99,500. For the 2002-03 tax year, Defendant assigned the property a RMV of \$122,900 and a MAV of \$100,003 (based on the prior year's assessed value of \$97,091 plus 3 percent). Plaintiffs appealed the values to the board of property tax appeals (BOPTA). The BOPTA reduced

the RMV to the purchase price of \$99,500 but left the MAV at \$100,003. Plaintiffs appeal claiming the assessed value should be reduced to reflect 76 percent of the RMV because that is the general ratio between the assessed value and RMV of properties in Deschutes County. As explained at the conference, the court does not have authority to adjust the values as requested.

ANALYSIS

The court finds it appropriate to begin with a discussion of the background of Oregon's property tax system. In May 1997, Oregon voters passed by referendum Measure 50 (M50), which substantially modified the property tax system in the State of Oregon. Prior to M50, a property was taxed at its RMV. Due to increasing values, Oregon voters chose to limit the growth of assessed values. In doing so, M50 created the concept of MAV. For the 1997-98 tax year, which was the implementation year for M50, the MAV was calculated by taking a property's 1995-96 RMV and subtracting 10 percent. Or Const, Art XI, § 11(1)(a).¹ M50 provides that, for each successive year, the MAV may increase no more than 3 percent a year. Or Const, Art XI, § 11(1)(b); *see also* ORS 308.146(1). The measure also requires counties to maintain a record of a property's RMV because a property is to be taxed at the lesser of its MAV or its RMV. Or Const, Art XI, § 11(1)(f).² In this case, the property's assessed value was initially the MAV of \$100,003 because it was less than the property's RMV of \$122,900. However, after the BOPTA reduced the RMV below the MAV, the assessed value became the property's reduced RMV of \$99,500.

¹ *See also* Or Laws 1997, ch 541, § 2(2), *compiled as a note after* ORS 308.146.

² *See also* ORS 308.146(2) and Or Laws 1997, ch 541, § 2(3), *compiled as a note after* ORS 308.146.

///

Plaintiffs argue the property's assessed value should be reduced to reflect 76 percent of the property's RMV because that is the general ratio between RMV and assessed value of properties in Deschutes. However, that is not how the assessed value is calculated. As noted above, the assessed value of a property is the lesser of its RMV or MAV. Consequently, to reduce the assessed value, the court would need to reduce either the RMV or the MAV. The BOPTA already reduced the RMV to the purchase price of the property, and Plaintiffs do not claim it should be further reduced. The MAV is derived from a constitutional formula. Defendant set the base MAV in the 2001-02 tax year when Defendant valued it as new property. Each year thereafter, pursuant to the constitutional formula, the MAV may increase no more than 3 percent. Defendant did not increase it by more than the allowable 3 percent for the 2002-03 tax year. As a result, the court is unable to modify the subject property's MAV. Consequently, the assessed value must remain at the property's RMV of \$99,500.

CONCLUSION

The court concludes that it lacks authority to reduce the assessed value as requested by Plaintiffs. Now, therefore,

IT IS THE DECISION OF THE COURT that the above-entitled matter be dismissed.

Dated this _____ day of May, 2003.

COYREEN R. WEIDNER
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 THIS DECISION OR THIS DECISION BECOMES FINAL AND CANNOT

BE CHANGED.

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON
MAY 27, 2003. THE COURT FILED THIS DOCUMENT ON MAY 27, 2003.**