

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

STEPHEN G. SKIPWORTH,)
)
Plaintiff,) TC-MD 030362F
)
v.)
)
DESCHUTES COUNTY ASSESSOR,)
)
Defendant.) **DECISION OF DISMISSAL**

This case is before the court on its own motion to dismiss. The motion was heard at the trial on September 10, 2003. David Carmichael represented Plaintiff. Theresa Maul appeared for Defendant.

Plaintiff is seeking a reduction in the real market value of his personal residence for tax year 2002-03 to \$493,000, Plaintiff and Sharon Skipworth's purchase price in June 2001. The real market value of the property for tax year 2002-03 is \$579,500. Plaintiff timely appealed to the board of property tax appeals (BOPTA). Based on a recommendation from Defendant,¹ BOPTA declined to lower the property's real market value to the purchase price.

The maximum assessed value is \$400,542. Even if Plaintiff was to receive a reduction to \$493,000, the new real market value would be greater than the maximum assessed value. In most cases lowering the real market value to an amount greater than

¹ Defendant had some concerns that Plaintiff's purchase of the property was not a market transaction. First, the property sold in March 1999 for \$520,000. The court notes, however, that the earlier sale included a Deed of Trust for the entire amount of the purchase price of \$520,000. Second, Plaintiff's Statutory Warranty Deed indicated that Plaintiff's purchase of the property was part of an IRC section 1031 exchange. Plaintiff's counsel indicated that although that was Plaintiff's original intention, there was no section 1031 exchange. Instead, Plaintiff's purchase was of a more traditional nature. Plaintiff's counsel also noted that Defendant's records indicate the sale as a "confirmed sale."

maximum assessed value would not result in any reduction in taxes. That would be the end of the inquiry.

That is not always the case. There are different tax rates applied to real market and maximum assessed values. In some cases a real market value higher than maximum assessed value results in a lower overall tax liability. The constitutional limits of Article XI, section 11b of the Oregon Constitution (Measure 5) apply only to real market value. Those limits are sometimes lower than the levy rate applied to maximum assessed value. The value and corresponding levy rate producing the lowest overall tax bill is the one that becomes the “assessed” value. The term used in such cases is “compression.”

Defendant submitted a worksheet that indicated there would be no compression if the real market value is reduced to \$493,000. The court finds that even if Plaintiff succeeds in his claim he would be entitled to no relief. Because there is no real tax impact to the dispute, Plaintiff is not aggrieved.

As this court has previously stated, “[i]n 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.” *Kaady v. Dept. of Rev.*, 15 OTR 124, 125 (2000).

See also Parks Westsac L.L.C. v. Dept. of Rev., 15 OTR 50 (1999). Now, therefore,

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IT IS THE DECISION OF THIS COURT that this matter be dismissed.²

Dated this _____ day of September, 2003.

SALLY L. KIMSEY
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. 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 23, 2003. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 23, 2003.

² Because the court is dismissing the case, Defendant's motion that the court order Plaintiff to turn over any appraisal is rendered moot.