IN THE OREGON TAX COURT MAGISTRATE DIVISION Property Tax

| ALF J. MOEBIUS and JODY L. MOEBIUS, |) |
|-------------------------------------|----------------------|
| Plaintiffs, |)) TC-MD 030809A |
| V. |) |
| LANE COUNTY ASSESSOR, |) |
| Defendant. |) DECISION |

Plaintiffs have appealed the assessment of their residence, identified by Account 1163037, for the 2002-03 tax year. Jody Moebius appeared on behalf of Plaintiffs. Thomas Frederiksen, of Defendant's staff, was its representative.

I. STATEMENT OF FACTS

Plaintiffs' arguments as to the taxation of their residence are easy to understand. They purchased their home in January, 2002 for \$238,000. The real market value of their property on the roll was lowered to their purchase price by the board of property tax appeals in April 2003. However, this action did not reduce their tax burden, because the property had an assessed value of \$224,936.

That point is the essence of Plaintiffs' complaint. Their home is all but identical to other homes in their neighborhood, save for the fact that, as to some, the areas of Plaintiffs' house and lot are smaller. Despite that fact, Plaintiffs are assessed at a higher level than their neighbors. Plaintiffs contend that the inequity would be removed if their assessed value was lowered to \$215,000.

Another matter is the timing of Defendant's Answer. Plaintiff filed its Complaint on May 14, 2003. Defendant did not file its Answer until June 30, 2003.

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II. ANALYSIS

Plaintiffs expended substantial effort in their appeal. Their careful work has demonstrated that their home is assessed higher than other properties, similar to theirs, within their neighborhood.

However, there is nothing the court can do to address that situation. The source of the disparities in assessed value is the property tax relief measure known as Measure 50. This is explained in the Regular Division's decision, *Ellis v. Lorati*, 14 OTR 525 (1999), a copy of which is enclosed. Although the court understands that Plaintiffs had no ability to contest the values which now burden them, this reasoning was not persuasive in *Lorati*.

A last matter is Plaintiffs' request that they be granted relief because Defendant did not file its Answer within 30 days. Although Plaintiffs' point is correct, it is not enough to compel the result Plaintiffs desire. This is because, even if no Answer had been filed at all, the court could not lower the assessed value contrary to the constitution, statutes, and precedent of this court.

III. CONCLUSION

Plaintiffs' request, coming from concerns as to equity and fairness, is reasonable. However, other alternatives are reasonable as well. The legislature made

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its choice, which the voters ratified, in Measure 50. For the court to do what Plaintiffs ask

would be inconsistent with Lorati's analysis of the law. Now, therefore,

IT IS THE DECISION OF THIS COURT that the appeal is denied.

Dated this _____ day of November, 2003.

SCOT A. SIDERAS MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY <u>MAILING</u> TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY <u>HAND DELIVERY</u> 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 SCOT A. SIDERAS ON NOVEMBER 7, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 7, 2003.