

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

PUI CHEUK LI and JANET LI, )  
 )  
 Plaintiffs, ) TC-MD 040087C (Control)  
 ) 040088C  
 v. )  
 )  
 MULTNOMAH COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

Plaintiffs have appealed Defendant's clerical error assessments on two separate properties for tax years 1999-2000 through 2003-04. Plaintiffs filed separate appeals for each property, which is consistent with court practice and policy. However, the court is administratively consolidating the appeals because the two cases involve substantially the same facts, the same issue, and the same argument by Plaintiffs.

I. STATEMENT OF FACTS

The properties are located at 14227 SE Oak Street and 322 SE 142<sup>nd</sup> Avenue. The assessor's account numbers are R193501 and R193504, respectively. The lot was subdivided in 1997, and in 1998, two homes were constructed. Plaintiffs bought the two properties in 1998. Defendant increased the real market value for the 1999-2000 tax year to reflect the addition of the buildings, but did not adjust the maximum assessed and assessed values to reflect those improvements. That error was carried forward five years into tax year 2003-04. As a result, Plaintiffs' taxes were only about 25 percent of what they should have been. Defendant discovered the error in late 2003, and on December 18, 2003, sent Plaintiffs notices of intent to correct the tax rolls and collect the additional taxes for the five years during which the error occurred. Defendant subsequently added the values to the rolls for the years at issue and advised

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Plaintiffs the tax would be billed on the 2004-05 tax statement. Notice to that effect was mailed  
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January 12, 2004. Plaintiffs timely appealed.

## II. ANALYSIS

ORS 311.205 authorizes the assessor to make corrections to the assessment and tax roll for clerical errors.<sup>1</sup> The statute provides, in relevant part:

“(1) After the assessor certifies the assessment and tax roll to the tax collector, the officer in charge of the roll may correct errors or omissions in the roll to conform to the facts, as follows:

“(a) The officer may correct a clerical error. A clerical error is an error on the roll which either arises from an error in the ad valorem tax records of the assessor \* \* \* or which is a failure to correctly reflect the ad valorem tax records of the assessor, \* \* \* and which, had it been discovered by the assessor \* \* \* prior to the certification of the assessment and tax roll of the year of assessment would have been corrected as a matter of course, and the information necessary to make the correction is contained in such records. Such errors include, but are not limited to, arithmetic and copying errors, and the omission or misstatement of a land, improvement or other property value on the roll.”

ORS 311.205

Corrections for clerical errors “may be made to the roll for any year or years not exceeding five years prior to the last roll so certified.” ORS 311.205(2)(a). The correction in this case went back five years, encompassing tax years 1999-2000 through 2003-04. The total amount of additional taxes imposed on the two properties is roughly \$17,500.

The assessor made adjustments to maximum assessed value and assessed value. Those adjustments were made to add the value of the improvements and the increase in the value of the land resulting from the addition of on-site developments. To understand that correction, it is necessary to understand something about Oregon’s property tax system.

Maximum assessed value was established by a constitutional amendment and in the first year of implementation, which was the 1997-98 tax year, it was 90 percent of the property’s real

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<sup>1</sup> Unless otherwise noted, all references to the Oregon Revised Statutes (ORS) are to 2003.  
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market value on the roll for the 1995-96 tax year. Or Const, Art XI, § 11(1)(a).<sup>2</sup> For the years after 1997-98, maximum assessed value typically increases 3 percent each year. ORS 308.146(1).<sup>3</sup> However, when, as in this case, new property is added, maximum assessed value is determined pursuant to ORS 308.153. See ORS 308.146(3). Under ORS 308.153(1), the maximum assessed value is determined by adding the maximum assessed value of the existing property, as determined under ORS 308.146, to the product of the real market value of the new property multiplied by a ratio. The ratio is determined by dividing “the average maximum assessed value [by] the average real market value for the assessment year.” ORS 308.153(1)(b).

Defendant apparently determined the maximum assessed value of the existing property in accordance with ORS 308.146, but failed to add the new property (including the on-site developments). As a result, the maximum assessed value represented only the unimproved land, based on the prior year’s assessment.

Plaintiffs’ position is simple but unpersuasive. They reason that they should not be made to pay for the assessor’s mistake. They question how the mistake was made, given that it appears the assessor has all the information in its records, and once the mistake was made, how it went unnoticed for five years. That question, although understandable, is legally irrelevant. Defendant did respond, explaining that the reason for the mistake was that someone in the office failed to enter the real market value of the improvement and the on-site developments (which he referred to as exception to real market value). When pushed to explain why it took so long to discover the error, Defendant responded that there are approximately 400,000 property accounts to manage and that it is difficult to catch all the mistakes. Defendant further pointed out that

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<sup>2</sup> In May 1997, the voters approved Measure 50 by referendum. Or Const, Art XI, § 1. Measure 50 amended the state’s constitution to impose a limit on the growth of assessed value for property taxes.

<sup>3</sup> The statute provides that “maximum assessed value of property shall equal 103 percent of the property’s assessed value from the prior year or 100 percent of the property’s maximum assessed value from the prior year, whichever is greater.” ORS 308.146(1).

Plaintiffs are simply being asked to pay the tax they should have paid all along. Although true, that explanation was no doubt less than comforting to Plaintiffs. Returning to the legalities of Defendant's action, Plaintiffs have the statutory burden of proof pursuant to ORS 305.427 and have not demonstrated, or even alleged, that Defendant failed to follow the law. The court did some probing but did not uncover any statutory violations.

### III. CONCLUSION

Plaintiffs' appeal is denied because they have failed to demonstrate any irregularities in Defendant's clerical error corrections encompassing tax years 1999-2000 through 2003-04.

Now, therefore,

IT IS THE DECISION OF THIS COURT that these cases are consolidated.

IT IS FURTHER DECIDED that Plaintiffs' appeal is denied.

Dated this \_\_\_\_\_ day of June 2004.

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DAN ROBINSON  
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 DAN ROBINSON ON JUNE 1, 2004. THE COURT FILED THIS DOCUMENT ON JUNE 1, 2004.**