

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

WILLARD and SHIRLEY JAYNE TRUST,)	
WILLARD W. JAYNE, JR., TRUSTEE)	
)	
Plaintiff,)	TC-MD 040184B
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff seeks a reduction in maximum assessed value (MAV) of property identified as Account 174569 for the tax year 2003-04. During a telephonic case management conference held April 26, 2004, the parties agreed that the court would decide the case on written submissions. Willard Jayne Jr. appeared for Plaintiff. Theresa Maul, Chief Appraiser for Deschutes County, appeared on behalf of Defendant.

Subsequently, written arguments were received. The record closed July 1, 2004.

I. STATEMENT OF FACTS

The subject property is a class 6, single-story home located in Bend, Oregon. The 2003-04 property tax statement showed a real market value (RMV) of \$733,040 and a MAV of \$496,400. Plaintiff filed an appeal with the local board of property tax appeals (BOPTA) seeking a reduction in the subject property's RMV and MAV. On February 24, 2004, BOPTA reduced the RMV to \$608,708, but did not order a reduction to the MAV. This appeal was filed on March 16, 2004. Plaintiff seeks a reduction for the subject property's MAV to \$432,400.

II. ANALYSIS

The main issue presented by Plaintiff is whether the RMV reduction of the subject property requires a downward adjustment to the MAV so the ratio of the subject property's

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assessed value (AV) to RMV is proportional to the ratio of comparable properties. Plaintiff also argues that all area homes should be assessed in a uniform manner.

In 1997, Oregon voters fundamentally changed Oregon's property tax system by passing Measure 50.¹ Prior to Measure 50, the AV of real property was generally its RMV. ORS 308.232 (1995).² Under that system, the link between RMV and AV caused AVs to rise in proportion to increases in RMVs. Voters responded by adopting Measure 50, which limited the growth of AVs by severing the link between RMV and AV by the creation of MAV. MAV is a statutory construct representing a unit of property's RMV for the 1995-96 tax year, reduced by 10 percent. Or Const, Art XI, § 11(1)(a). Under Measure 50, the AV—the value upon which property taxes are imposed—is equal to the lesser of the property's MAV or RMV. Or Const, Art XI, § 11(1)(f); ORS 308.146(2).

Section 11 of the Oregon Constitution provides for the increase of MAV upon the occurrence of specified events. Annual increases to MAV are generally limited to 3 percent of the previous year's MAV. Or Const, Art XI, § 11(1)(b); ORS 308.146(1). MAV may also increase if:

- "(A) The property is new property or new improvements to property;
- "(B) The property is partitioned or subdivided;
- "(C) The property is rezoned and used consistently with the rezoning;
- "(D) The property is first taken into account as omitted property;
- "(E) The property becomes disqualified from exemption, partial exemption or special assessment; or
- "(F) A lot line adjustment is made with respect to the property[.]"

Or Const, Art XI, § 11(1)(c); ORS 308.146(3). *See also* ORS 308.153(1); ORS 308.156; and ORS 308.159.

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¹ Measure 50 was codified at Article XI, section 11, of the Oregon Constitution.

² Unless otherwise noted, all reference to the Oregon Revised Statutes (ORS) are to 2001.

In contrast, the Oregon Constitution makes no provision for reducing MAV. The Regular Division of the Tax Court held that the silence of section 11 with respect to downward adjustments to MAV was a "conscious decision" evincing an intent for "any value decreases to be reflected in the alternative to maximum assessed value: real market value." *Taylor v. Clackamas County Assessor(I)*, 14 OTR 504, 510 (1999). The court considered it improbable that the authors of section 11 gave detailed attention to events that increase value, but, through oversight, failed to provide for decreases in value. *Id.*

Similarly, the statutes lack any provision requiring **all** value decreases to be reflected in MAV. The legislature provided for reductions to the MAV in just two instances. First, MAV may be reduced when a lot line is adjusted. ORS 308.159. Second, when property is damaged or destroyed due to fire or act of God, MAV may be reduced to reflect the resulting loss. ORS 308.146.

Plaintiff argues that BOPTA's refusal to reduce the MAV of the subject property is erroneous because it does not reflect the "traditional" relationship between RMV and AV. However, that "traditional" relationship no longer exists in Oregon law. In its place stands a system that, when RMV is greater than MAV, assigns an AV unrelated to the current RMV to property without new improvements. *See Or Const, Art XI, § 11(1)(f); ORS 308.146(2)*. Neither the Oregon Constitution nor the statutes currently in effect allow reductions to MAV for all decreases in value. Accordingly, Plaintiff's theory is not supported by current law.

Defendant provided evidence of the historical AV computations since 1995-96. Those equations prove the \$496,400 MAV to be correct and consistent with the statutory mandates.

Plaintiff also argues that the MAV must be reduced because it is "unfair" that he pays more in property taxes than owners of comparable property. However, nonuniformity is the expected and accepted consequence of Measure 50. *See e.g., Ellis v. Lorati*, 14 OTR 525, 535

(1999) (stating that the concept of MAV may cause nonuniformity in the property tax system and that Measure 50 excuses itself from complying with other constitutional provisions requiring uniformity). Because the Oregon Constitution expressly permits nonuniform imposition of property taxes, this court has no basis for reducing Plaintiff's MAV in order to make his property tax burden proportionate to that of comparable property owners. *See Gendvilas v. Clackamas County Assessor*, TC-MD 010506E (June 18, 2001).

III. CONCLUSION

The laws of Oregon provide for reductions to MAV in only two circumstances, neither of which are presented in this case. The court recognizes that Plaintiff may be paying at a different tax level than others in the area. Though disparate, the Oregon Constitution approves and compels that outcome. Because Defendant's calculation of the assessed value is correct, Plaintiff was not aggrieved by BOPTA's refusal to reduce the MAV. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is denied.

Dated this _____ day of July 2004.

JEFF MATTSON
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 JEFF MATTSON JULY 28, 2004. THE COURT FILED THIS DOCUMENT JULY 28, 2004.