

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JOHN R. BLADHOLM)	
and STELLA BLADHOLM, TRUSTEES,)	
)	
Plaintiffs,)	TC-MD 040281D
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs appeal the maximum assessed value and assessed value of their property identified by the Deschutes County Assessor as Account R 1-003 18229-BO-00300 (190790) for tax year 2003-04. Plaintiffs’ arguments were submitted to the court in a letter dated July 16, 2004 and October 4, 2004. During the case management conference held Monday, November 8, 2004, Defendant confirmed that it did not file written responses and it joined with Plaintiffs in asking the court to make a decision.

I. STATEMENT OF FACTS

Plaintiffs appealed the real market value, maximum assessed value, and assessed value of the subject property to the board of property tax appeals (BOPTA) of Deschutes County. On March 2, 2004, BOPTA ordered a reduction in the real market value of Plaintiffs’ property. BOPTA did not order a reduction in the maximum assessed value or assessed value of Plaintiffs’ property.

Plaintiffs wrote that ORS 309.026 states, “that a taxpayer may appeal the assessed value and maximum assessed value of their property.” (Ptf’s letter dated Oct 4, 2004.) Plaintiffs allege

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that BOPTA's failure to hear their appeal is contrary to the plain language of the statute. Plaintiffs ask this court to adjust the maximum assessed value and assessed value of their property.

The parties agree that, in computing the maximum assessed value of Plaintiffs' property, Defendant made a clerical error. Defendant states that the maximum assessed value and assessed value for tax year 2003-04 should be \$528,875.

II. ANALYSIS

Plaintiffs allege that BOPTA failed to follow the procedures mandated by statute. Plaintiffs are allowed to "petition the board of property tax appeals for relief as authorized under ORS 309.026." ORS 309.100(1).¹ ORS 309.026 authorizes BOPTA to hear petitions seeking a reduction in assessed, maximum assessed, specially assessed, and real market values. ORS 309.026, in pertinent part, states:

"(2) The board shall hear petitions for the reduction of:

"(a) The assessed value or specially assessed value of property **as of January 1** or as determined under ORS 308.146(6)(a) or 308.428;

"(b) The real market value of property **as of January 1** or as determined under ORS 308.146(6)(a) or 308.428;

"(c) The maximum assessed value of property **as of January 1** or as determined under ORS 308.146(5)(a) and 308.428; and

"(d) Corrections to value made under ORS 311.208."

(Emphasis added.)

As this court has previously noted, "[t]he board's authority under ORS 308.026 is quite comprehensive in terms of the types of valuation disputes it can hear." *23rd & Flanders LLC v.*

¹ All references to the Oregon Revised Statutes (ORS) are to year 2001.
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Multnomah County Assessor, TC-MD 030044C (Decision) (June 4, 2003). Under the statute, BOPTA is permitted to review the values of property as of January 1 of the current tax year under appeal. In this case, Plaintiffs asked BOPTA to adjust their 2003-04 maximum assessed value because, in their opinion, the value of their property originally placed on the tax roll was incorrect. As a result, the maximum assessed value which is less than the real market value of their property is their assessed value, and Plaintiffs allege it too is incorrect. Unfortunately, Plaintiffs overlook the statutory requirements that BOPTA can only review the current year. While the statute permits BOPTA to review maximum assessed value, their review of that value commonly occurs when new property is added to the tax roll for that tax year or a portion of the property is destroyed or damaged. *See* ORS 308.146(3); 308.146(5)(a); and 308.428. Otherwise, BOPTA's review of maximum assessed value is usually limited to verifying that the mathematical computation (103 percent of the prior year's assessed value) is correct.

In Plaintiffs' case, the maximum assessed value for tax year 2003-04 was 103 percent of the prior year's assessed value. ORS 308.146(1). There were no changes to Plaintiffs' property. With the exception of the clerical error subsequently discovered by Defendant after the BOPTA proceeding, the maximum assessed value of Plaintiffs' property was correctly computed for tax year 2003-04. Having concluded that the maximum assessed value was correctly computed for the current year, BOPTA affirmed the value.

There are no provisions in the current law that allow Plaintiffs to have the maximum assessed value of their property, initially determined over six years ago, reviewed by BOPTA. This court has previously explained that "the property tax system requires the *government* to keep the records and assess the tax, and the taxpayer audits for accuracy and correctness. * * * A failure to audit and challenge the assessment within the time limit will result in a loss by the party responsible for the audit." *Taft Church v. Dept. of Rev.*, 14 OTR 119, 122 (1997).

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(Emphasis in original.) Unfortunately, Plaintiffs’ failure “to audit and challenge” their property assessment at the time it was initially placed on the tax rolls has resulted in their losing an opportunity to appeal.² *Id.*

Plaintiffs strongly object to the fact that, having failed to appeal the value of their property in the year the property was initially placed on the rolls, they are now bearing “a tax burden which is no less than 14% higher, and as much as 30% higher than the vast majority of their surrounding neighbors, simply because their property was one of the first built and appraised.” (Ptf’s Letter dated Oct 4, 2004.) Even though Plaintiffs’ assessed value is substantially less than their real market value, Plaintiffs seek parity with their neighbors. This court has previously addressed Plaintiffs’ argument in *Ellis v. Lorati*, 14 OTR 525, 535 (1999), holding that:

“The court recognizes that in one sense MAV is somewhat artificial or arbitrary. That is inherent in the overall scheme of section 11. The concept may, over time, result in various degrees of nonuniformity in the property tax system. Section 11(18) contemplates this and excuses itself from complying with other constitutional provisions requiring uniformity, specifically Article IX, section 1, and Article I, section 32.”

III. CONCLUSION

Having missed the opportunity to appeal the value of their property when it was placed on the tax rolls, Plaintiffs cannot now seek from BOPTA a reduction in their maximum assessed value which was correctly based on 103 percent of the property’s prior year assessed value.

Now, therefore,

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² In some cases, the law (ORS 305.288) permits a taxpayer to appeal the value of their property for the current year and two prior years. That statute is not applicable here.

IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal is denied, with the exception that the parties agree that after correcting a clerical error the maximum assessed value and assessed value of subject property for tax 2003-04 is \$528,875.

Dated this ____ day of December 2004.

JILL A. TANNER
PRESIDING 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 PRESIDING MAGISTRATE JILL A. TANNER ON DECEMBER 15, 2004. THE COURT FILED THIS DOCUMENT ON DECEMBER 15, 2004.