

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

ROBERT D. SZNEWAJS)	
and VIRGINIA L. SZNEWAJS,)	
)	
Plaintiffs,)	TC-MD 040698C
)	
v.)	
)	
CLACKAMAS COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

This matter is before the court on Plaintiffs' request for a reduction in the assessed value of their property for the 2003-04 tax year.

I. STATEMENT OF FACTS

The appeal involves the value of Plaintiffs' home, identified in the county assessor's records as account number 01497268, for the 2003-04 tax year. The home was built in 1994 and first added to the assessment and tax rolls in 1995 (1995-96 property tax year).

Plaintiffs purchased the property in January 2001 for \$639,000, and they subsequently had the home appraised for \$710,000 in December 2003. The home is located in a known slide area and, according to Plaintiffs, at least a portion of the lot has steep topography and no functional utility. Plaintiffs filed a petition with the county board of property tax appeals (Board), and the Board reduced the real market value from \$883,587 to \$710,000, a reduction of roughly 20 percent. The assessed value is \$598,140 and was not reduced by the Board. Plaintiffs asked the court to reduce the assessed value to mirror the percentage reduction in the real market value. Plaintiffs calculate the amount of the reduction to be \$113,646.

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II. ANALYSIS

The issue before the court is whether a reduction in the real market value automatically triggers a reduction in assessed value. Because of the confusing nature of Oregon's property tax system, the court will begin with an overview of the relevant statutory and constitutional provisions.

Historically, assessed value was based on market value, unless the property was under special assessment or partial exemption. However, beginning with the 1997-98 tax year, assessed value, which is generally the value against which taxes are computed, was the lesser of real market value or maximum assessed value. ORS 308.146(2).¹ The change was brought about by Measure 50, which amended the Oregon Constitution. Or Const, Art XI, § 11. Section 11 specifies that, for the tax year beginning July 1, 1997 (1997-98 tax year), the maximum assessed value is 90 percent of the 1995 real market value. Thereafter, the maximum assessed value may increase 3 percent per year. Or Const, Art XI, § 11(1)(b); *see also* ORS 308.146(1). Real market value, on the other hand, is the actual value of the property on the open market. Thus, while real market value can remain unchanged, or rise or fall substantially from year-to-year, maximum assessed value rises a predictable 3 percent each year, unless there are statutorily significant changes to the property, such as the addition of the building or a major remodel. The smaller of the two values (real market or maximum assessed) becomes the assessed value.

Plaintiffs obtained a fairly substantial reduction in the real market value of the property from the Board, which reduced that value \$173, 587, from \$883,587 to \$710,000. The reduction was just short of 20 percent. However, the assessed value is \$598,140 and is based on the maximum assessed value of the property. That value is more than \$100,000 below the real

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

market value. By law, the real market value has no relationship to the maximum assessed value (after the initial year of implementation of Measure 50). Because Plaintiffs' real market value is greater than their maximum assessed and assessed values, the reduction in real market value has no impact on assessed value. The only instance in which a reduction in real market value translates into a reduction in assessed value is where real market value is less than maximum assessed value. There is simply no statutory authority for automatically ordering a percentage reduction to assessed value to match a Board reduction to real market value. Rather, all of the values must be considered in light of the governing law.

III. CONCLUSION

Plaintiffs' request for a reduction in assessed value to mirror the percentage reduction in real market value ordered by the Board is denied because the two values - assessed value and real market value - have no direct relationship to one another in this case, and the real market value, as adjusted by the Board, exceeds the maximum assessed and assessed values of the property. Now, therefore,

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

Dated this _____ day of October 2004.

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 OCTOBER 12, 2004. THE COURT FILED THIS DOCUMENT OCTOBER 12, 2004.