

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

ROY IRA SUTTON, TRUSTEE,)	
MARJORIE J. SUTTON, TRUSTEE)	
and SUTTON FAMILY REV TRUST)	
)	
Plaintiffs,)	TC-MD 050208D
)	
v.)	
)	
JACKSON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

Plaintiffs appeal the maximum assessed value of their property for tax year 2004-05. A case management conference was held on Wednesday, April 27, 2005. Madeline Hill, real estate broker, and Roy Sutton, owner, appeared on behalf of Plaintiffs. Scott Fraedrick, Appraiser, appeared on behalf of Defendant. After discussing the following facts, the parties agreed that the court should put its findings in writing.

I. STATEMENT OF FACTS

Plaintiffs purchased their property, identified in the county assessor's records as Account 10959859, in April 2004. Plaintiffs' purchase price was \$399,000. After receiving their property tax statement in October 2004, Plaintiffs appealed the real market value and maximum assessed value to the board of property tax appeals (BOPTA). BOPTA reduced the real market value on the tax roll to match Plaintiffs' purchase price. However, BOPTA did not change the maximum assessed value, \$369,800.

Following the appeal instructions on the BOPTA Order, Plaintiffs filed their Complaint with this court. Plaintiffs' request that the court reduce the maximum assessed value of their

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property. After reviewing comparable properties, Plaintiffs concluded that the maximum assessed value and assessed value should be “somewhere around \$270,000.”

Defendant stated, that although Plaintiffs are the first owners of the subject property, the value of the property was placed on the county’s tax rolls in 2002-03. For tax years 2002-03 and 2003-04, the developer, Mountain Meadows, Inc., did not appeal the tax roll values.

II. ANALYSIS

Plaintiffs ask this court to reduce the maximum assessed value of their property for tax year 2004-05. Oregon’s property tax system is complex and for the benefit of Plaintiffs, who recently moved into the state, an overview of the laws governing the system follows.

Before 1997, property in Oregon was generally assessed at 100 percent of its real market value. ORS 308.232¹ (1995). Real market value is defined as “the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm’s length transaction occurring as of the assessment date for the tax year.” ORS 308.205(1). In 1997, significant changes were made to Oregon’s property tax system. Article XI, section 11(1)(a), of the Oregon Constitution was amended to read: “For the tax year beginning July 1, 1997, each unit of property in this state shall have a maximum assessed value for ad valorem property tax purposes that does not exceed the property’s real market value for the tax year beginning July 1, 1995, reduced by 10 percent.” For each tax year thereafter, the maximum assessed value may increase no more than three percent per year. Or Const, Art XI, § 11(1)(b); *see also* ORS 308.146(1). Beginning in tax year 1997-98, assessed value was the lesser of real market value or maximum assessed value. ORS 308.146(2).

¹ All references to the Oregon Revised Statutes (ORS) are to tax year 2003 unless otherwise noted.

For property added to the tax roll, any challenge to maximum assessed value must occur in the year the value is placed on the tax roll. For subsequent tax years, the maximum assessed value is derived from a constitutional formula. The court has concluded that maximum assessed value “is somewhat artificial or arbitrary.” *Ellis v. Lorati*, 14 OTR 525, 535 (1999). While real market value can rise or fall based on the sale of comparable properties, maximum assessed value rises no more than three percent each year, unless there are significant changes to the property, such as additions or improvements to the property.

In this case, BOPTA reduced the real market value of Plaintiffs’ property to match their purchase price, \$399,000. BOPTA did not reduce the maximum assessed value, \$369,800. Because the maximum assessed value is less than the real market value, the maximum assessed value of Plaintiffs’ property is the assessed value. Plaintiffs ask this court to reduce the maximum assessed value based on their review of comparable properties.

Plaintiffs’ property was added to the tax roll in 2002-03 and the maximum assessed value was set. Under the law, for each year thereafter, the maximum assessed value can increase no more than three percent. For tax year 2004-05, Defendant did not increase the maximum assessed value of Plaintiffs’ property by more than the allowable three percent. As a result, even though the parties agree that the maximum assessed value of Plaintiffs’ property appears to be “too high”, the court is unable to adjust the maximum assessed value of Plaintiffs’ property.

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III. CONCLUSION

The court concludes that it does not have the authority to change the maximum assessed value of Plaintiffs' property. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal must be dismissed.

Dated this _____ day of May 2005.

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 May 2, 2005. The Court filed this document on May 2, 2005.