

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

BANG VAN TRAN and DAO ANH THI LAM,)	
)	
Plaintiffs,)	TC-MD 050508E
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s Motion to Dismiss, filed May 17, 2005. The court discussed the motion with the parties during the case management conference held July 12, 2005. Bang Van Tran appeared on behalf of Plaintiffs. Richard Sanderman appeared on behalf of Defendant.

I. STATEMENT OF FACTS

Plaintiffs appeal the 2004-05 assessed value of the property identified as Account R220287. Plaintiffs purchased the property October 14, 2004, for \$287,500. For the 2004-05 tax year, Defendant assigned the property a real market value (RMV) of \$510,150 and a maximum assessed value (MAV) of \$303,580. Because the MAV was lower than the RMV, the assessed value (AV) of the property was \$303,580. Plaintiffs appealed the values to the Multnomah County Board of Property Tax Appeals (the board). The board reduced the RMV of the property to the purchase price of \$287,500. Because that action reduced the RMV below the MAV, the board ordered the AV reduced to \$287,500. Plaintiffs appeal, claiming the AV should be further reduced based on the RMV reduction.

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II. ANALYSIS

In May 1997, Oregon voters passed by referendum Measure 50 (M50). That measure substantially modified the property tax system in the State of Oregon. Prior to M50, a property was taxed at its RMV. Due to increasing values, Oregon voters chose to limit the growth of assessed values. In doing so, M50 created the concept of “maximum assessed value” (MAV). For the 1997-98 tax year, which was the implementation year for M50, the MAV was calculated by taking the property’s 1995-96 RMV and subtracting 10 percent. Or Const, Art XI, § 11(1)(a). M50 provides that, for each successive year, the MAV will increase no more than 3 percent a year. Or Const, Art XI, § 11(1)(b); *see also* ORS 308.146(1).¹ The measure also requires counties to maintain a record of the property’s RMV because a property is to be taxed at the lesser of its MAV or its RMV. Or Const, Art XI, § 11(1)(f); *see also* ORS 308.146(2).²

In this case, the property’s AV was initially its MAV of \$303,580 because the MAV was less than the property’s original RMV of \$510,150. After the board reduced the RMV to \$287,500, the RMV became less than the property’s MAV. As a result, because the RMV was now less than the MAV, the board reduced the AV of the property to the reduced RMV.

Plaintiffs provided evidence that showed comparable properties with assessed values generally 47 percent of their RMVs. Plaintiffs claim it is unfair that the subject property’s AV is equal to its RMV. Plaintiffs argue that equity would result in a reduction of the AV to roughly

¹ All references to the Oregon Revised Statutes (ORS) are to 2003.

² ORS 308.146(2) states, in pertinent part:

“* * * [T]he assessed value of property to which this section applies shall equal the lesser of:

“(a) The property’s maximum assessed value; or

“(b) The property’s real market value.”

47 percent of the property's RMV. To reduce the property's AV, however, the court would need to reduce either the RMV or the MAV. The board already reduced the RMV to the purchase price of the property, and Plaintiffs do not claim it should be further reduced. The MAV is derived from a constitutional formula; as a result, the court is unable to modify the subject property's MAV.³ Because the court cannot lower either the RMV or MAV, the court cannot order the AV further reduced.

Although the disparity in values is understandably frustrating, the Regular Division of the Tax Court has already accepted that Measure 50 will result in some degree of nonuniformity. In *Ellis v. Lorati*, the court stated:

“The court recognizes that in one sense MAV is somewhat artificial or arbitrary. That is inherent in the overall scheme of section 11 [of the Oregon Constitution]. 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.”

14 OTR 525, 535 (1999).

CONCLUSION

The court concludes that it lacks authority to reduce the AV as requested by Plaintiffs.

Now, therefore,

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³ There are certain circumstances when the court may review a property's MAV. For example, when an addition is added to a building, the county must increase the MAV. The value added to the MAV is the RMV of the addition multiplied by the ratio of the average MAV to average RMV of similarly situated property. Or Const, Art XI, § 11(1)(c); *see also* ORS 308.153. The court may evaluate the RMV of the addition, which will ultimately impact the property's MAV. No circumstances are presented in this case to allow the court to review the property's MAV.

IT IS THE DECISION OF THE COURT that the above-entitled matter is dismissed.

Dated this _____ day of August 2005.

COYREEN R. WEIDNER
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 Coyreen R. Weidner August 10, 2005. The Court filed and entered this document August 10, 2005.