

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

JOHN J. BASSETT, )  
 )  
 Plaintiff, ) TC-MD 060073D  
 )  
 v. )  
 )  
 HARNEY COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

Plaintiff appeals the maximum assessed value of his property, identified as Account 1553, for the 2003-04, 2004-05, and 2005-06 tax years.

The case management conference held on Thursday, April 6, 2006, was converted to a trial. John Bassett appeared on his own behalf. Ted Tiller, Harney County Assessor, appeared on behalf of Defendant.

I. STATEMENT OF FACTS

Plaintiff purchased the subject property in January 2004, paying \$24,000. After a site visit and discussion with Plaintiff, the county recorded \$24,780 as the real market value of the property for tax year 2004-05. The maximum assessed value on the tax roll was \$33,504. Plaintiff's assessed value was \$24,780.

For tax year 2005-06, the real market value of the property was increased approximately five percent based on the county's sales ratio study. Defendant referenced ORS 309.200 and the requirements set forth therein to support its real market value determination in the amount of \$26,034. Plaintiff testified that he agrees the real market value of \$26,034 is "probably correct."

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Defendant testified that there was no change in the maximum assessed value of \$33,504 between tax years 2004-05 and 2005-06. Defendant stated that it followed the statutory requirements of ORS 308.146.

The assessed value of the subject property for tax year 2005-06 was \$26,034.

## II. ANALYSIS

Plaintiff is not appealing the real market value and assessed value of the subject property. He is appealing the maximum assessed value. Plaintiff alleges that the maximum assessed value was incorrectly determined in 1999-2000, a year he did not own the property, and that the erroneous amount has been increased three percent per year, with the exception of the current tax year. He states that he is financially “hurt” by that alleged error.

Plaintiff’s appeal relates to the changes in Oregon’s property tax system brought about by the enactment of Measure 50. For the 1997-98 tax year, which was the implementation year for Measure 50, the assessed value of property was the lesser of the maximum assessed value (MAV) or real market value. *See Or Const, Art XI § 11(1)(f)*. In setting the MAV for the 1997-98 tax year, the assessor was instructed to take the “real market value for the tax year beginning July 1, 1995, as reflected on the applicable assessment and tax roll \* \* \*.” *Or Laws 1997 ch 541, § 2*. Measure 50 provided that for each successive year the MAV can increase no more than three percent per year. *See Or Const., Art XI § 11(1)(b); see also ORS 308.146(1)*.<sup>1</sup>

In computing the maximum assessed value of the subject property, there is no dispute that Defendant followed the constitutional and statutory requirements. Plaintiff asks that the court order a change in the maximum assessed value beginning in 1999.

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<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2003.

The court is unable to grant Plaintiff’s requested relief. Plaintiff did not own the property in 1999-2000, and he has no standing to bring an appeal for a tax year he was not the owner of the subject property, or under a contractual obligation to pay the property taxes for the subject property. *See* ORS 305.275(1)(b). However, if Plaintiff had owned the property in 1999, he could have appealed the real market value of the improvements added to the roll in that tax year. Unfortunately, he did not own the property and the opportunity to appeal the tax assessment has lapsed. Even if Plaintiff had owned the subject property or was responsible for the property taxes in tax year 1999-2000, this court has previously concluded that Article XI, section 11(1)(g) of the Oregon Constitution “prevents going back in history and revising each property’s MAV starting point.” *Ellis v. Lorati*, 14 OTR 525, 534 (1999). The court makes the further observation that “MAV is somewhat artificial or arbitrary. That is inherent in the overall scheme of section 11.” *Id.* at 535. Therefore, Plaintiff’s appeal would have been limited to the value of the “new” property improvements added to the tax roll in 1999. He could not have challenged the MAV set in 1997.

In this case, Plaintiff’s challenge is limited to the accuracy of the computation of the maximum assessed value.<sup>2</sup> There is no dispute that the maximum assessed value was computed in accordance with ORS 308.146(1) for all tax years subsequent to 1999.

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<sup>2</sup> Plaintiff timely appeals an order of the board of property tax appeals (BOPTA) for tax year 2005-06. Plaintiff has no standing to appeal 2003-04, a tax year he did not own the subject property. For tax year 2004-05, Plaintiff owned the property and successfully appealed the real market value of the subject property.

### III. CONCLUSION

After reviewing the testimony and evidence, including Plaintiff's Complaint and Defendant's Answer, the court concludes that the wrong alleged by Plaintiff cannot be addressed by this court. Now, therefore,

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

Dated this \_\_\_\_\_ day of April 2006.

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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 April 27, 2006. The Court filed this document on April 27, 2006.***