

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

KENNETH G. MARSHALL)	
and KAREN L. MARSHALL,)	
)	
Plaintiffs,)	TC-MD 060466B
)	
v.)	
)	
BENTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant's Motion to Dismiss, filed May 2, 2006. A case management conference was convened on July 17, 2006.

Plaintiffs appeal from an Order¹ of the Benton County Board of Property Tax Appeals dated March 22, 2006, concerning Account 408909. They seek a reduction in the 2005-06 real market value from \$333,120 to \$308,444. Even if Plaintiffs were to receive such a reduction, the revised total would still be above the Defendant's maximum assessed value of \$280,132. As such, no change in the amount of tax would occur and there would be no refund. Therefore, there is no tax impact to the dispute; Plaintiffs are not aggrieved.

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¹ An earlier appeal, TC-MD No 051006B, was filed on December 28, 2005. It concerns the calculation of the maximum assessed value (MAV) of this property for the 2005-06 tax year. In a Decision filed the same date as this document, the court denied Plaintiffs' appeal and upheld a MAV of \$280,132 as calculated by Defendant.

So long as the property's maximum assessed value is less than its real market value, the taxpayer is not aggrieved within the meaning of ORS 305.275.² *See Parks Westsac L.L.C. v. Dept. of Rev.*, 15 OTR 50 (1999); *see also Kaady v. Dept. of Rev.*, 15 OTR 124 (2000).

After considering the record, the court concludes that the case must be dismissed. Now, therefore,

IT IS THE DECISION OF THE COURT that this appeal is dismissed.

Dated this ____ day of July 2006.

JEFFREY S. MATTSON
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 Jeffrey S. Mattson on July 28, 2006. The Court filed and entered this document on July 28, 2006.

² All references to the Oregon Revised Statutes (ORS) are to 2003.