

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

RYAN M. THOMAS,)
)
 Plaintiff,) TC-MD 070128B
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on Defendant’s Motion to Dismiss (Motion) filed April 11, 2007. The motion was addressed at a case management conference held May 7, 2007. Ryan M. Thomas appeared on his own behalf. Doug Kelsay represented Defendant. Subsequently, written submissions were received. The record closed July 20, 2007.

I. STATEMENT OF FACTS

Plaintiff appeals the 2006-07 assessed value of residential property identified in Defendant’s records as Account R242793. For tax year 2006-07, Defendant assigned the property a real market value (RMV) of \$356,200 and a maximum assessed value (MAV) of \$302,330. The lower of those two amounts, \$302,330, became the assessed value (AV) for the year. Those values were sustained by the Multnomah County Board of Property Tax Appeals. Plaintiff now seeks a reduction to \$245,000 for both MAV and AV.

On further appeal to this court, Plaintiff does not contest the RMV of the property. However, when comparing the subject property’s MAV with neighboring properties, Plaintiff concluded his MAV was disproportionately higher and, as a result, he was paying more taxes than his neighbors. Plaintiff now challenges the MAV and AV of the property, requesting that the values be reduced to levels consistent with neighboring properties. Defendant claims the

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appeal should be dismissed because Plaintiff is challenging the MAV, and the court cannot adjust that category.

Plaintiff contends that a substantial error occurred between 2002 and 2003, before he acquired the property. He sums up his position as:

“[T]here has been an error in the calculation of my property tax from 2003 on forward. Re-calculating the real market value (RMV) from the error point in 2003 on forward to 2006 brings the RMV of my home in line with comparable homes in my neighborhood. Therefore, I am requesting relief and the reduction of my property tax in the sum of \$1200 because of this RMV calculation error.”

(Ptf’s Ltr at 2, June 14, 2007.)

II. ANALYSIS

In May 1997, Oregon voters passed, by referendum, Measure 50 (M50), which 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 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 generally increase no more than three 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).

Exceptions to the general three percent increase in a property’s MAV exist. ORS 308.146(3) provides that, when major improvements are made to property, the MAV may increase by more than the allowable three percent. In that instance, the MAV is calculated by

¹ All references to the Oregon Revised Statutes (ORS) are to 2005.

adding together the MAV of the property prior to the improvements to the RMV of the new improvements, “multiplied by the ratio * * * of the average maximum assessed value over the average real market value for the assessment year.” ORS 308.153(1).

Plaintiff argues that the value of his residence is not consistent with neighboring properties. He is concerned that the high tax liability will negatively impact his attempts to sell the property in the future. The court agrees that negative consequences may occur from an increased tax burden. However, Plaintiff’s arguments regarding uniformity have previously been rejected by the court as a basis for modifying the MAV. In *Taylor v. Clackamas County Assessor (I)*, the Tax Court held:

“It is important to point out that maximum assessed value is an arbitrary limit. It is possible that section 11 will, over time, result in nonuniform property taxation. The drafters of Measure 50 recognized that because they expressly provided that Article I, section 32, and Article IX, section 1, of the Oregon Constitution, both of which address the issue of uniformity in taxation, do not apply to section 11. Or Const, Art XI, § 11(18). If the voting public approved a scheme that may result in nonuniform taxation, then they implicitly accepted the notion of some degree of ‘unfairness.’ That is, by providing for taxation of property at the lesser of maximum assessed value or real market value, they accepted all of the potential inconsistencies and lack of uniformity in between.”

14 OTR 504, 511 (1999). (Decision withdrawn on other grounds.)

The court reiterated its holding on the uniformity issue in *Ellis v. Lorati*, stating:

“The court recognizes that in one sense MAV is somewhat artificial or arbitrary. That is inherent in the overall scheme of [Measure 50]. The concept may, over time, result in various degrees of nonuniformity in the property tax system. Section 11(18) [of the Oregon Constitution] contemplates this and excuses itself from complying with other constitutional provisions requiring uniformity * * * .”

14 OTR 525, 535 (1999).

The court finds, therefore, that it is without the statutory authority to adjust the MAV based on Plaintiff’s allegations of nonuniform taxation.

III. CONCLUSION

The court concludes that Defendant calculated the 2006-07 MAV properly and, as a result, the court cannot modify the AV of the property. Consequently, the court finds Defendant's Motion to Dismiss must be granted. Now, therefore,

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

Dated this _____ day of August 2007.

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 August 9, 2007. The Court filed and entered this document on August 9, 2007.