

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

GORDON W. BRANSTATOR,)	
)	
Plaintiff,)	TC-MD 070244C
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appealed the value of his home, identified in Defendant’s records as Account R231688, for the 2006-07 tax year. The court heard the matter on May 30, 2007. Plaintiff appeared on his own behalf. Defendant was represented by Bob Schafer and Dennis Wardwell, appraisers with the Multnomah County Assessor’s office.

I. STATEMENT OF FACTS

Plaintiff is unhappy with the assessed value (AV) of his home and the resulting taxes when compared to other homes in the neighborhood. In his Complaint, Plaintiff requested an adjustment to the assessment and taxes. At the May 30, 2007, hearing, the court explained to Plaintiff the operation of Measure 50 and required Plaintiff to specify a value. Plaintiff spoke at length about the assessed value and taxes of other homes in the neighborhood and ultimately requested that the court reduce his AV to \$145,000, and adjust the taxes accordingly.

The real market value (RMV) for Plaintiff’s property on the assessment and tax rolls is \$295,830. The maximum assessed value (MAV) and AV are both \$173,460. In response to a question from the court, Plaintiff stated that he felt his RMV was “about right.” The court also probed the addition of exception RMV, apparently stemming from the addition of a sunroom and other changes to the home, but Plaintiff preferred to confine the discussion to AV and taxes.

II. ANALYSIS

To begin with, there are statutes that allow a taxpayer to appeal the value of property used to assess and levy property taxes, but none allowing a general appeal of one's property taxes based solely on a belief or opinion that the property taxes are too high. *See, e.g.*, ORS 309.026(2)¹ (authorizing an appeal to the county board of property tax appeals seeking a reduction of AV, RMV, or MAV); and ORS 305.275(3) (authorizing an appeal to the magistrate division of the Tax Court from a board order). Plaintiff seeks a reduction in both AV and taxes. Taxes will be reduced if Plaintiff establishes his entitlement to a reduction in the AV.

Under Oregon law, AV is the lesser of MAV or RMV. ORS 308.146(2). MAV, in turn, is an indexed value originally established in 1997 as 90 percent of the property's 1995 tax roll RMV. *See Or Const, Art XI, § 11(a).*² From 1998 forward, MAV generally rises three percent per year (the indexed value). *See Or Const, Art XI, § 11(b);*³ ORS 308.146(1).⁴ RMV, on the other hand, is the most probable selling price of the property on the applicable assessment date. ORS 308.232 and ORS 308.205. RMV moves with the market, and has, in the recent past, generally risen by considerably more than three percent annually. Plaintiff's property has experienced such a phenomenon.

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

² Article XI, section 11(a) of the Oregon Constitution, commonly referred to as Measure 50, provides:

“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.”

³ Article XI, section 11(b) of the Oregon Constitution, provides:

“For tax years beginning after July 1, 1997, the property's maximum assessed value shall not increase by more than three percent from the previous tax year.”

⁴ ORS 308.146(1) defines MAV as the greater of “103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year[.]”

Plaintiff would like AV reduced to a number he feels is “fair” based on other AVs in the area. Plaintiff does not request a reduction in RMV. Nor does Plaintiff request a reduction in exception RMV which is the market value of the changes made to the home. Plaintiff’s request for a reduction in AV cannot be granted because AV cannot be unilaterally changed. As explained above, AV is the lesser of RMV or MAV. MAV is a mechanical calculation and RMV is based on market forces. The only way to reduce Plaintiff’s AV in this case would be for Plaintiff to allege and establish an RMV below the AV, or demonstrate an error in the amount of the exception RMV added by Defendant for the improvements made to the home. Plaintiff has not alleged an error in either number.

III. CONCLUSION

The court cannot reduce Plaintiff’s AV without a reduction to RMV or exception RMV. Plaintiff has not asked for, and does not seek, a reduction in either of those values. A reduction in AV would have generated a reduction in property taxes; the absence of the former precludes the latter. Plaintiff’s appeal must therefore be denied. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff’s appeal is denied.

Dated this _____ day of June 2007.

DAN ROBINSON
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 Dan Robinson on June 13, 2007. The Court filed and entered this document on June 13, 2007.