

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

MELVIN D. ODEN-ORR)	
and DONNA ODEN-ORR,)	
)	
Plaintiffs,)	TC-MD 070295C
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

Plaintiffs have appealed the real market value (RMV) and assessed value (AV) of their home, identified as Account R193787, for the 2006-07 tax year. Plaintiffs seek a \$10,000 reduction in the RMV based on the 2005 purchase price and a corresponding reduction in the AV. Defendant filed a Motion to Dismiss based on the “aggrievement” requirement in ORS 305.275 and this court’s earlier Decision in *Kaady v. Dept. of Rev.*, 15 OTR 124 (2000) (*Kaady*).

The taxpayer in *Kaady* was requesting a reduction in RMV from \$305,866 to \$260,000. *Id.* at 125. The maximum assessed value (MAV) on the roll was \$244,987 and, under ORS 308.146(2) (1997),¹ the AV was \$244,987. The *Kaady* court granted Defendant Department of Revenue’s (Department) motion to dismiss, relying on *Parks Westsac LLC v. Dept. of Rev.*, 15 OTR 50 (1999) (*Parks*), where the court ruled that a taxpayer is not aggrieved under ORS 305.275 “[s]o long as the property’s maximum assessed value is less than its real market value[.]” *Parks*, 15 OTR at 52; *Kaady*, 15 OTR at 125. This is because taxes are

///

///

¹ References to the Oregon Revised Statutes (ORS) are to 2005, unless otherwise noted.
DECISION OF DISMISSAL TC-MD 070295C

imposed on AV, and AV is the lesser of RMV or MAV. ORS 308.146(2). In *Kaady*, the court stated that “[i]n requiring that taxpayers be ‘aggrieved’ under ORS 305.275, the legislature intended that the taxpayer have an immediate claim of wrong.” *Kaady*, 15 OTR at 125. For there to be an immediate claim of wrong, the reduction in value must produce a corresponding reduction taxes. Where a reduction in RMV will not reduce taxes, this court has ruled taxpayers not aggrieved.

The RMV in this case is \$369,570. The MAV and AV is \$153,880. Plaintiffs seek a reduction in the RMV to \$359,750. That reduction, if ordered by the court, would not reduce the RMV below the MAV; hence, the AV would not be reduced and taxes would remain unchanged. Accordingly, Plaintiffs are not aggrieved.

Plaintiffs ask the court not only to reduce RMV, but to reduce AV based on the requested reduction in RMV. The court cannot order such a reduction because, assuming a reduction in RMV would be in order, there is no correlation between RMV and MAV, and, AV, being the lesser of the two, is generally unaffected by reductions in RMV. The exception would be when a taxpayer is requesting in RMV below the MAV. The reason is because, whereas property in Oregon used to be assessed at 100 percent of the property’s RMV, Measure 50 altered things by amending the state’s constitution to provide for a MAV in 1997 equal to 90 percent of the property’s 1995 RMV, with three percent annual increases in MAV thereafter. Or Const, Art XI, § 11(a), (b). Under ORS 308.232 and ORS 308.205, RMV continues to move with market conditions, historically outstripping the statutorily imposed three percent rise in MAV. The important point is that, as stated above, there is no correlation between RMV and MAV whereby a reduction in RMV automatically generates a reduction in MAV and AV.

///

///

Based on the foregoing, the court concludes that Plaintiffs are not aggrieved and that Defendant's Motion to Dismiss should be granted. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

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 12, 2007. The Court filed and entered this document on June 12, 2007.