

IN THE OREGON TAX COURT
REGULAR DIVISION
Property Tax

PHILIP SHERMAN)
and VIVIAN SHERMAN,)
) **TC 4628**
Plaintiffs,)
) **ORDER GRANTING DEFENDANT'S**
v.) **MOTION TO DISMISS**
)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendant.)

I. INTRODUCTION

Plaintiffs (taxpayers) complain of an increase in the real market value (RMV) of a floating home for the 2002-03 tax year. The property apparently was assessed at a maximum assessed value that was substantially below the RMV.

Taxpayers have not alleged that the lower RMV for which they contend would have any effect on the tax due on the property. They have in fact admitted, "the increase in the RMV of the floating home of Slip No. 10 does not immediately impact the Plaintiffs." (Ptfs' Affirmation in Supp of Cross-Mot for Summ J and in Opp'n to Mot to Dismiss at ¶ 4.)

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Defendant Department of Revenue (the department) has filed a Motion to Dismiss, asserting that taxpayers are not aggrieved. Taxpayers have opposed that motion.¹

II. ISSUE

Are taxpayers aggrieved by the actions of the assessor so as to come within ORS 305.275?

III. ANALYSIS

Taxpayers admit that even if they were to be successful in their action, there would be no immediate impact on them. In such cases this court does not proceed. *Kaady v. Dept. of Rev.*, 15 OTR 124 (2000); *Parks Westsac L.L.C. v. Dept. of Rev.*, 15 OTR 50 (1999). Taxpayers assert actions of the assessor here were improperly motivated and that they have been denied uniform treatment. Those claims are appendages to the underlying claim as to valuation and suffer its fate.

IV. CONCLUSION

Taxpayers' Complaint must be dismissed. The department's Motion to Dismiss should be granted. Now, therefore,

IT IS ORDERED that Defendant's Motion to Dismiss is

¹ The filing of taxpayers was styled as a cross-motion for summary judgment. It will be treated as an opposition to the Motion to Dismiss.

granted, and

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IT IS FURTHER ORDERED that Plaintiffs' Complaint is
dismissed.

Dated this ____ day of January 2004.

Henry C. Breithaupt
Judge