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Falls Apartments, LLC v. Multnomah County Assessor

Oregon Tax Court, Magistrate Division, Property Tax - August 4, 2016 - 2016 WL 4167515

Plaintiff appealed the real market value of its property for the 2015–16 tax year.

The subject property is part of a Construction In Process (‘CIP’) exemption in which the improvements on the subject property are not subject to taxation. Therefore, only the land valuation is being taxed for the 2015/2016 tax year. The subject property’s 2015–16 tax roll real market value was $3,917,000. Plaintiff requested that the subject property’s 2015–16 real market value be reduced to $3,773,655, based on the its actual cost.

The County Assessor moved for dismissal because Plaintiff’s 2015–16 requested real market value would not provide any sort of tax savings as a result of the CIP.

The issue presented was whether Plaintiff is aggrieved under ORS 305.275(1)(a) for the 2015–16 tax year. Under ORS 305.275(1)(a), a taxpayer “must be aggrieved by and affected by an act, omission, order or determination of” a county board of property tax appeals or a county assessor, among others. Generally, so long as the property’s maximum assessed value is less than its real market value, a taxpayer is not aggrieved.

Plaintiff conceded that it’s requested 2015-16 real market value would not result in a reduction of the subject property’s 2015-16 assessed value or property taxes because the subject property is under the CIP exemption. Plaintiff argued that it is nevertheless aggrieved for the 2015–16 tax year because of a protection afforded taxpayers under Article XI, section 11(2) of the Oregon Constitution, which states in part:

> “After disqualification from partial exemption or special assessment, any additional taxes authorized by law may be imposed, but in the aggregate may not exceed the amount that would have been imposed under this section had the property not been partially exempt or specially assessed for the years for which the additional taxes are being collected.”

Under Plaintiff’s reading of that constitutional provision, Plaintiff had the right to ‘lock in’ the assessed value for 2015–16 as it would have been if it had been valued correctly without the exemption.

The Tax Court ruled that Plaintiff was not aggrieved under ORS 305.275(1)(a) for the 2015–16 tax year.

The Court agreed with the County Assessor that Plaintiff may assert a claim when the subject property is no longer exempt under the CIP program. At that point, the subject property’s maximum assessed value will be determined taking into account the new improvements and Plaintiff may appeal if it disagrees with the assessment.