

Oregon State Legislature Testimony  
HB 2086 – 2/15/2023  
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Thank you for allowing me the opportunity to submit written testimony. Also, I want to apologize for my video testimony as I was not well prepared to reduce 3 years of appalling experience to 3 minutes of verbal testimony. In the following I will try to be brief. I will also add some comments relative to questions that were asked at that time.

The subject property is Jackson County Oregon Tax Account 10177006  
The Magistrate Division of the Oregon Tax Court Case # 20 0188 N

1. Property was purchased in 2005.
2. In 2006, the county assessor made an “exception adjustment” partly for a zoning change and partly for a significant remodel that changed the use of the property. Billing statement had no indication of an “exception”.
3. The Court informed me that since it was not the assessor department’s responsibility to inform the taxpayer of a zoning change the assessor did not violate any notification requirement.
4. In 2019, in my presence the county assessor reviewed the 2006 exception adjustment and declared that it was in error. There was no evidence of a significant remodel and there had been no zoning change. He said that he could not correct the error.
5. Appeal was filed with BOPTA. Jackson County BOPTA does not hear appeals regarding property “Taxes”, rather it will only hear a dispute regarding real market value.
6. Application for correction of the MAV as provided in ORS 311.234 for the then current tax year (2019-20) was filed and it was denied by the Assessor – “error does not fall under ORS 311.234”. (see 12. below)
7. The Assistant Attorney General’s statement of purpose for intervening “**was to assure that that taxes were assessed accurately according to Oregon Property Tax Law.**”
8. The AAG lied in tax court stating the “exception adjustment” was not in error. (see 13. below)  
In July 2022 I filed a complaint with the Oregon State Bar for the attorney’s violation of Rule 3.3 and DR 7-102(A). As of February 16, 2023, this matter is still pending.
9. The Tax Court dismissed appeal for the tax years 2006 through 2013-14 due to the expiration of the statute of limitations. Total of tax assessed in error for these years was \$27,651.72.
10. The Tax Court found that it had no authority to order the assessor to make the corrections for the tax years 2015 through 2018-19 because ORS 311.205 does not give the taxpayer right to appeal when the assessor refuses to make corrections. The tax court Magistrate in dismissing the appeal noted that “presumably” the assessor and the DOR would have made the corrections when they learned of the error. Total of tax assessed in error for these years was \$20,298.35.
11. With the appeal for tax years noted in 9. And 10., the years 2019-20 and 2020-21 were left uncorrected and future years would continue to include taxes on improvements that never existed.
12. Prior to the trial date, I filed an application under ORS 311.234 for the then current year (2021-22) and it was approved by assessor’s department and that current year was corrected. I submitted this approved application to the tax court along with the one previously denied (see 6. above) and requested consideration that correction of the most current year was a material subsequent event.

13. The DOJ attempted to stop consideration of the approved application under ORS 311.234 as it confirmed that the exception adjustment was in error and taxes were being assessed on improvements that never existed. The tax court accepted the appeal under ORS 311.234 as being timely filed and the assessor and the DOJ were ordered to correct the tax years 2019-20 and 2020-21.
14. Unfortunately, ORS 311.234 is not consistent with 311.205 in providing for correction of the previous five years.
15. ORS 311.205 is not consistent with ORS 311.234 in recognizing that the taxation during the previous five years was based on improvements that never existed and therefore correction should not be at the discretion of the assessor.
16. It does not appear that ORS 311.205 requires that there be an error in the current tax year in order for the assessor to correct “any year or years not exceeding five years prior to the last certified roll”. The last certified tax year was 2022-23. The five years prior would include 2021-22 which has been corrected, 2020-21 which has been corrected, 2019-20 which has been corrected, 2018-19 which has not been corrected, and 2017-18 which has not been corrected.
17. On December 2, 2022, I filed a petition with the Jackson County Assessor requesting correction as noted above (16.) The Assessor responded that he had no intention to make the corrections and that his position was supported by the tax court. I did not appeal to the BOPTA as I knew it would not hear the case, and I did not appeal to the tax court as I knew that ORS 311.205 does not give me the right to appeal.
18. The DOR, the DOJ, and the Assessor have denied the right to be taxed correctly according to Oregon Law, and current statute supports the assessor’s abuse of authority. I also believe that the DOR, the DOJ and the Assessor have all violated their mission statements and as such have also violated the oath of office that each of the representatives have sworn to. The Jackson County Board of Commissioners have not responded to numerous communications.
19. In November 2023, I intend to again file a petition with the Jackson County Assessor for correction under ORS 311.205 in which the five prior years will still include the tax year 2018-19. I assume he will again deny the petition and will simply continue to set the pattern for what may be done next.
20. ORS 162.415 provides that (1) A public servant commits the crime of official misconduct in the first degree if: (a) With intent to ... harm another; (A) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office. This is a Class A misdemeanor and action can be filed at anytime while the public servant is still in office.

With regard to the concern that has been raised about implementing some way of providing the taxpayer with some notice that the billing assessed value is more than 3.0%, I think it is important to recognize two things about us as humans; 1) we generally want to trust that we are taxed properly, and 2) we fail to read notices. I don’t think that giving a notice needs to contain great detail but needs to get the taxpayers attention. There is concern about the cost of providing such notice. In 2006 when the exception adjustment was added to my account, resulting in \$3,007.63 in additional taxes, the cost of first-class postage was \$0.37. A note that “your property tax statement includes an exception adjustment” would certainly have gotten my attention.

I think it would be useful to know how many or what percentage of tax accounts incur an exception adjustment each year, and what is the added revenue each year from exception adjustments.

## Board of Property Tax Appeals (BOPTA)

I noted above that the Jackson County BOPTA does not hear petitions regarding property “taxes”, rather will only hear petitions regarding Real Market Values. A question was asked if all of the “Boards” in the state hear the same petitions and the individual responded that he would have to get that information.

Referring to HB 2031 A Staff Measure Summary under Background, the following comment is made: County boards of property tax appeals (BOPTA) hear petitions for reduction of the real market, **maximum assessed**, specially assessed, and assessed value of property placed on the roll by the county assessor. They also consider requests to waive penalties assessed for the late filing of real and personal property returns.

That background information is straight out of the BOPTA manual. It is not true in my experience with the BOPTA in Jackson County. When a petition is accepted and a hearing is scheduled, the petitioner gets a notice that includes the statement under the heading of HEARING PROCEDURES: “Real Market Value, **NOT TAXES**, are the subject of the hearing”. I have been before the Jackson County BOPTA three times and in two of the hearings they refused to hear a dispute of the maximum assessed value.

**Chapter 9 of the *Board of Property Tax Appeals Manual (150-303-484 (Rev. 08-17)*** under the heading of Jurisdiction, Authority, page 9-1 says: ORS 309.026 grants the board of property tax appeals in each county the authority to hear petitions for the reduction of the following values on the property tax roll: • Maximum assessed value (MAV) • Assessed value (AV)

If the board can “hear” petitions for the reduction of the “assessed value”, they most certainly will hear about “TAXES”, as it follows that if there is a reduction in AV there is a reduction in taxes.

**Chapter 11 of the *Board of Property Tax Appeals Manual*** under the heading of Appeal of Maximum Assessed Value, page 11-4 says: The petition forms provided to the public do not include a line to appeal the maximum assessed value (MAV) of property to BOPTA. For most properties, a taxpayer may assert the assessor made an error in the calculation of MAV by completing the assessed value portion of the form.

In Jackson County, the BOPTA will not “hear” that the assessor made an error in the calculation of MAV.

It has also been my experience that the Jackson County Assessor and the Department of Revenue are fond of dismissing any appeal of the MAV by simply saying that the MAV calculation is not in error because the State Constitution states that the MAV from the prior year is brought forward and increased by up to 3.0% and that what was done and therefore the calculation is not in error. The Assessor and the DOR seem to have a problem with basic math that if you multiply an incorrect base MAV by 1.03 you do not get a correct MAV.

HB 2031 renames “board of property tax appeals” to “property value appeals board”. Based on my experience with the Jackson County BOPTA, this bill is simply changing the name in recognition of the impotence of the BOPTA.