*There are **always** exceptions...*

# Maximum Assessed Value Manual

**exception** \ik-ˈsep-shən\ *n* ... **2:** one that is excepted; *esp* : a case to which a rule does not apply

Webster's 9th Edition

OREGON
DEPARTMENT
OF REVENUE

150-303-438 (Rev. 05-18)

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# Section 1—Maximum assessed value (MAV) and Assessed value (AV)

In November 1996, Oregon voters passed Measure 47, a citizen initiative and constitutional amendment. It rolled back property taxes for each property in the state (not assessed values) for the 1997–98 tax year to the 1995–96 level and restricted increases in taxes to no more than 3 percent per year. There were a number of technical problems with Measure 47, so the 1997 Legislature drafted Measure 50 to replace it. Measure 50 was passed by voters in May 1997.

Measure 50 replicated the tax cuts intended by Measure 47, but focused on taxable values and tax rates, rather than taxes. The principal features of the measure were a "cut" and "cap." The "cut" rolled back a property's taxable value and reduced taxing district levies. In addition, most local government tax levies were replaced with permanent tax rates. Measure 50 introduced maximum assessed value, which acts as a "cap" on the growth of taxable (assessed) value for most property.

### How it works:

Measure 50 initially established MAV for all assessable properties as 10 percent less than the 1995–96 real market value (RMV). MAV growth is limited to 3 percent per year. Combined with permanent tax rates, Measure 50 effectively limited tax increases, except under specific circumstances.

## Maximum assessed value defined ORS 308.146 (1)

**Property:** All property included within a single property tax account, except for property centrally assessed by the department, for which property means the total statewide value.

**Property tax account:** The division of property for purposes of listing it on the assessment roll.

Each property that isn't exempt or specially assessed has a MAV and an assessed value (AV) as described in statute:

**ORS 308.146 (1).** The maximum assessed value of property equals 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, whichever is greater.

Based on the statute, there are only two possible outcomes to what value becomes the MAV; it's ***either*** the prior year's assessed value multiplied by 1.03 **or** the prior year's MAV—whichever is greater. In addition, the following conditions apply:

- MAV can't increase by ***more than*** three percent (the **maximum**); or
- MAV may increase anywhere ***between*** -0- and 3 percent each year; or
- MAV can't change (it freezes) in the year ***after*** RMV falls ***over*** 3 percent below MAV.

Let's demonstrate how MAV is calculated so we can test these conditions and provide some concrete examples. This is the ***first*** test and it is often referred to as "The 103 percent test".

### Maximum Assessed Value (MAV). The 103 percent test:

- Calculate the prior year's assessed value x 1.03.
- Compare to prior year's maximum assessed value.
- Whichever is **greater** becomes the current maximum mssessed value (MAV).

### MAV Chart 1: The 103 percent test; "Prior year AV x 1.03" is greater than "Prior MAV", therefore the prior year Av x 1.03 becomes the current MAV.

The 103 percent test:
Which one is Greater?
Prior AV x 1.03 or Prior MAV?

1

2 Compare

3 Greater of the two becomes Current MAV

| Tax Yr (1) | AV (1) | Prior Yr AV x 1.03 (2) | Prior MAV (3) | Current MAV (4) |
|---|---|---|---|---|
| 13-14 | $229,068 | | $229, 068 | |
| 14-15 | | $235,940 | $229,068 | $235,940 |
| | | | | Prior Yr AV x 1.03 is Greater = Current MAV |

### Explanation of MAV Chart 1:

- Column (1) shows the prior year assessed value (AV) of $229,068.
- Column (2) shows the calculation to establish current MAV: Prior year AV ($229,068) multiplied by 1.03 equals $235,940.
- Column (3) shows the **prior** year maximum assessed value (MAV) ($229,068).
- Compare column (2) to column (3), whichever one is greater becomes the new MAV ($235,940).
- In this instance, the prior year AV x 1.03 is greater than the prior MAV and prior year AV x 1.03 becomes current (new) MAV (4).

In the above example, MAV increased to the maximum 3% allowed by law.

### MAV Chart 2: The 103 percent test; "Prior MAV" is greater than "Prior AV x 1.03", therefore the prior MAV becomes the current MAV.

The 103 percent test:
Which one is Greater?
Prior AV x 1.03 or Prior MAV?

1

2 Compare

3 Greater of the two becomes Current MAV

| Tax Yr (1) | AV (1) | Prior Yr AV x 1.03 (2) | Prior MAV (3) | Current MAV (4) |
|---|---|---|---|---|
| 13-14 | $198,568 | | $226,518 | |
| 14-15 | | $204,525 | $226,518 | $226,518 |
| | | | | Prior MAV Greater = Current MAV |

**Explanation of MAV Chart 2:**

- Column (1) shows the prior year assessed value (AV) of $198,568.
- Column (2) shows calculation: Prior year AV ($198,568) multiplied by 1.03 equals $204,525.
- Column (3) shows the prior year maximum assessed value (MAV) (226,518).
- Compare column (2) to column (3), whichever one is greater becomes the new MAV ($226,518).
- In this instance, the prior year MAV is greater and becomes the current MAV (4).

**Note:** MAV can't change in a year after RMV falls below MAV.

There are conditions when MAV **doesn't** increase the full 3% and when MAV will freeze until the market/RMV increases above MAV.

**MAV Chart 3: The 103 Percent Test; MAV Increases by less than 3%:**

| Tax Year | Prior Yr AV (1) | Prior Yr AV x 1.03 | Prior MAV (3) | Current MAV (4) |
|---|---|---|---|---|
| 11-12 | $198,568 | $204,525 | $226,518 | $226,518 |
| 12-13 | $221,731 | $228,382 | $226,518 | $228,382 |
| | | | | |

## One MAV per account

Oregon Revised Statute (ORS) 308.215 requires that RMV of land be listed on the assessment roll separately from all buildings, structures, and improvements on the land. However, Measure 50 provides that MAV be established for each unit of property in the state. By requiring each unit of property to have an MAV, the Supreme Court determined that each tax account will have an MAV. MAV isn't separately determined for the land and the buildings within the tax accounts. Refer to *Flavorland Foods v. Washington County Assessor and Dept. of Revenue,* 344 Or. 562, 54 P.3d 582 (2002) in the appendix.

## Uniformity in taxation not required for MAV

The Oregon Constitution requires that any assessment of taxes be done uniformly on the same class of subjects throughout the state. However, Measure 50 added another section to the Oregon Constitution that exempts itself from the uniformity requirements.

MAV is strictly driven by a mathematical formula. After it's established, it's no longer linked to RMV beyond the possible effect of the 103 percent test. Because of this, the framers of Measure 50 understood that it's somewhat artificial and arbitrary.

For a variety of reasons, two houses side-by-side with the same RMV may have dramatically different MAVs, and, therefore, dramatically different tax burdens.

## Assessed value defined

**AV equals either MAV or RMV, whichever is less.**

AV is the value used to calculate the taxes assessed on property. For most properties, RMV is substantially greater than MAV, so AV is limited to equaling MAV. However, for various reasons, including a declining market, a property's RMV may be less than MAV. In that case, the property is assessed at its RMV.

AV must be calculated after MAV.

After maximum assessed value (MAV) is calculated (103 percent test), perform the second test—whichever is **less** wins this test:

- Compare current maximum assessed value (MAV) to RMV.
- Whichever one is **less** becomes the New Assessed Value (AV).
- AV is the value used to calculate the taxes assessed on property and can't exceed RMV.

Just remember: Whichever is **less** wins this test.

## AV Chart 5: The Second Test: Which is less? Current MAV or RMV? Current MAV is less than RMV and becomes New AV.

1 The Second Test: Which is LESS? Current MAV or RMV?

2 Whichever is less Wins this test!

| Tax Year | Prior Yr AV x 1.03 | Prior MAV | Current MAV (4) | RMV (5) | AV (6) |
|---|---|---|---|---|---|
| 09-10 | $219,920 | $213,515 | $219,920 | $224,624 | $219,920 |
| 10-11 | $226,517 | $219,920 | $226,517 | $190,931 | $190,931 |
| 11-12 | $196,658 | $226,517 | $226,517 | $198,568 | $198,568 |
| 12-13 | $204,525 | $226,517 | $226,517 | $222,396 | $222,396 |

## Explanation of AV Chart 5:

Tax year 09–10:

- Column (4) shows the current MAV ($219,920) (The 103 percent test result).
- Column (5) shows the RMV ($224,624) **compare,** and
- Whichever is **less** wins this test and becomes the new AV (column 6).
- Result: For year 09–10, Current MAV is less and becomes new AV ($219,920).

## AV Chart 6: The second test: Which is less? Current MAV or RMV? Current RMV is less than MAV and becomes the new AV.

1 The Second Test: Which is LESS? Current MAV or RMV?

2 Whichever is less Wins this test!

| Tax Year | Prior Yr AV x 1.03 | Prior MAV | Current MAV (4) | RMV (5) | AV (6) |
|---|---|---|---|---|---|
| 09-10 | $219,920 | $213,515 | $219,920 | $224,624 | $219,920 |
| 10-11 | $226,517 | $219,920 | $226,517 | $190,931 | $190,931 |
| 11-12 | $196,658 | $226,517 | $226,517 | $198,568 | $198,568 |
| 12-13 | $204,525 | $226,517 | $226,517 | $222,396 | $222,396 |

### Explanation of AV Chart 6:

Tax year 10–11:

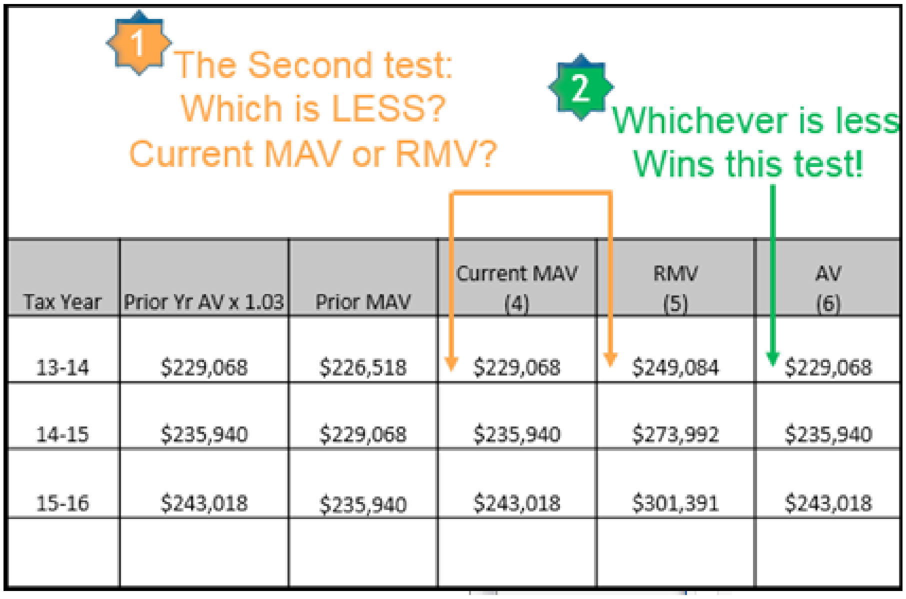
- Column (4) shows the current MAV ($226,518) (The 103 percent test result).
- Column (5) shows the RMV ($190,931) **compare** and discover that the RMV is **less**.
- Whichever is **less** wins this test and becomes the new AV.
- Result: For tax year 10–11, RMV is less and becomes new AV ($190,931) (column 6).

**Note:** When a property or market is declining, a property's ***RMV*** may fall below or be ***less*** than the MAV. When this occurs, the RMV becomes the AV and MAV freezes and doesn't change in a year after RMV falls more than 3% below MAV. If RMV is below MAV, but is within 3%, then MAV may increase by less than 3%.

**Note:** What happens in **tax year 11–12** and **tax year 12–13**?

Both Tax Years indicate the RMV is less than the MAV. Remember that AV can't exceed RMV and that MAV "freezes" and doesn't change in a year after RMV falls more than 3% below MAV.

**AV Chart 7: The Second Test: Which is less? Current MAV or RMV?**
**Current MAV is less than RMV and becomes the new AV.**




| Tax Year | Prior Yr AV x 1.03 | Prior MAV | Current MAV (4) | RMV (5) | AV (6) |
|---|---|---|---|---|---|
| 13-14 | $229,068 | $226,518 | $229,068 | $249,084 | $229,068 |
| 14-15 | $235,940 | $229,068 | $235,940 | $273,992 | $235,940 |
| 15-16 | $243,018 | $235,940 | $243,018 | $301,391 | $243,018 |
| | | | | | |

## Explanation of AV Chart 7:

Tax year 13–14:

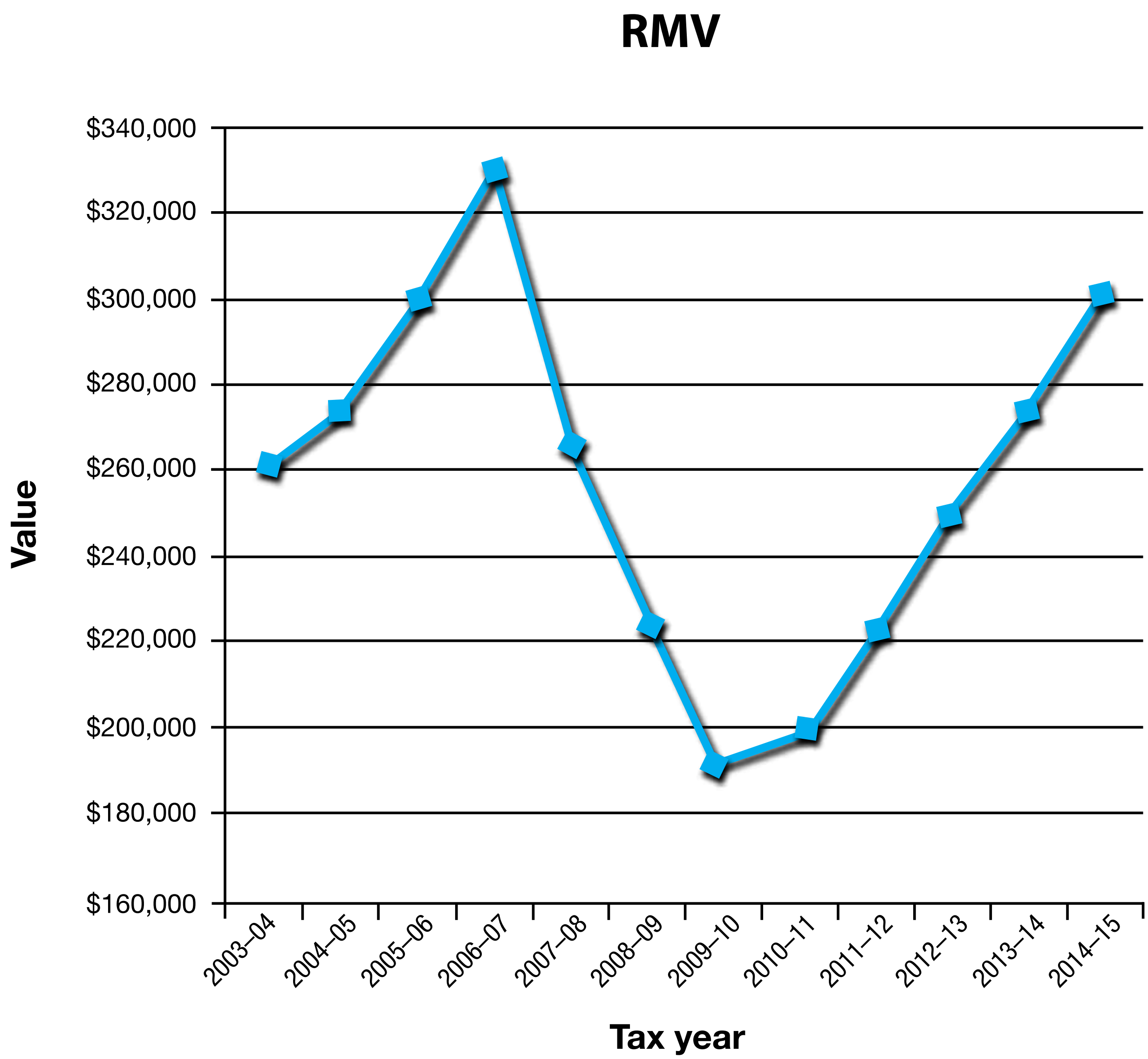
- Column (4) shows the current MAV ($229,068) (The 103 percent test result).
- Column (5) shows the RMV ($249,084). **Compare** and discover that the current MAV is now **less.**
- Whichever is **less** wins this test and becomes the new AV.
- Result: For tax year 13–14, current MAV is less and becomes new AV ($229,068) (column 6).

**Note:** Since the RMV is greater, MAV is no longer "Frozen" and can continue to increase up to the 3% limit.

## Relationship of RMV, MAV, and AV

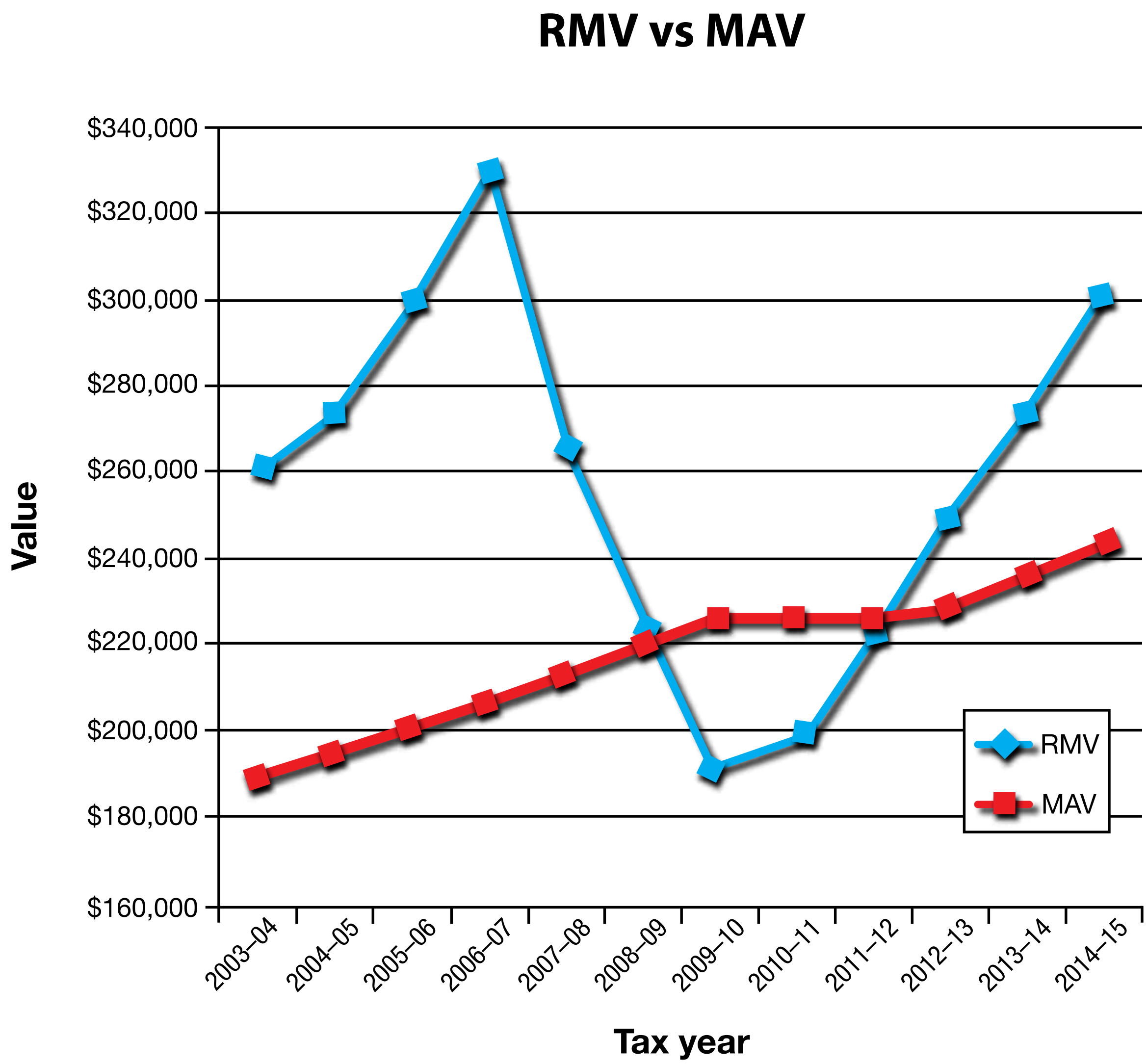
Using one property as an example, real market value has been plotted on the chart below.

The RMV, as assessed, in year 2003–04 was approximately $260,000 and, over the course of the next 11 years, the RMV went as high as $330,000 and as low as $190,000 ending the timeframe illustrated at $300,000.



By adding MAV to our chart (in Red), the relationship of MAV and RMV becomes clearer. When the RMV is ***below*** MAV, MAV is primarily a straight and level line. By definition, MAV is determined by comparing 103 percent of the previous year's AV to the previous year's MAV. The greater amount becomes the new MAV. Since MAV can always be, at a minimum, equal to its prior year's MAV, it will never go down in the "normal" course of events' such as if the property doesn't change, meaning that a qualifying event that allows the MAV to increase or decrease hasn't occurred.

In 2003–04, this property's MAV was approximately $190,000. The MAV steadily increased from -0- to 3 percent (when allowed) over the next 14 years to approximately $245,000 in MAV for 2014–15.

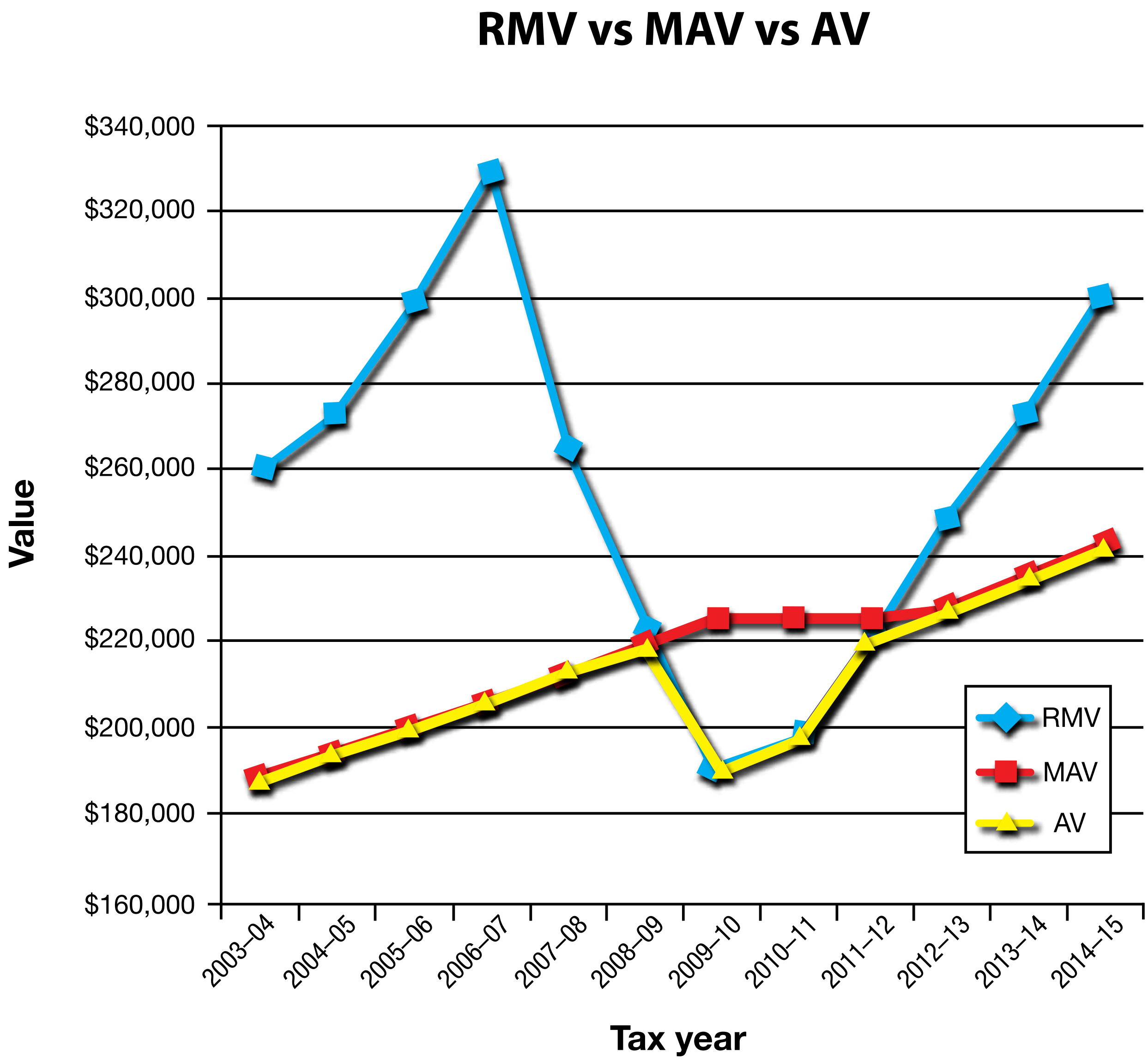



Note the following:
In 2008–09 MAV = $220,000 (approximate values)
In 2009–10 MAV = $226,800
In 2010–11 MAV = $226,800
In 2011–12 MAV = $226,800
In 2012–13 MAV = $231,500

Why did the MAV stop increasing in Tax years 2009–10, 2010–11, and 2011–12?

When the RMV dips below MAV, MAV "freezes" and doesn't change in a year after RMV falls at least 3% below MAV. In 2012–13, RMV increases well above the MAV. However, due to a second test, determining AV, MAV didn't increase the full 3%. Let's take a look at the second test.

The next chart adds the third component, AV (represented in yellow). This is established by comparing RMV to MAV, whichever is less wins this test and becomes the new AV.



From 2003–04, AV follows the MAV line up to the point it ***crosses*** RMV in 2008–09, then it follows the RMV—the RMV is less and wins the 2nd test).

Historically, in 2003–04, this property's taxes were based on approximately $190,000 in AV. Notice that the RMV was $260,000 and the MAV became the AV as MAV was less. The RMV increased significantly in the next few years and yet, due to Measure 50, the property's MAV had a maximum 3% increase over those same years and the MAV became the AV as it was the lesser value in the 2nd test.

When the RMV (market) declined (from 2006 through 2009–10), the MAV won the test and became the AV because it was still **less** than the RMV. MAV continued to increase by 3% until the RMV declined ***below*** the MAV, then MAV "froze" and the RMV won the test and became the new AV.

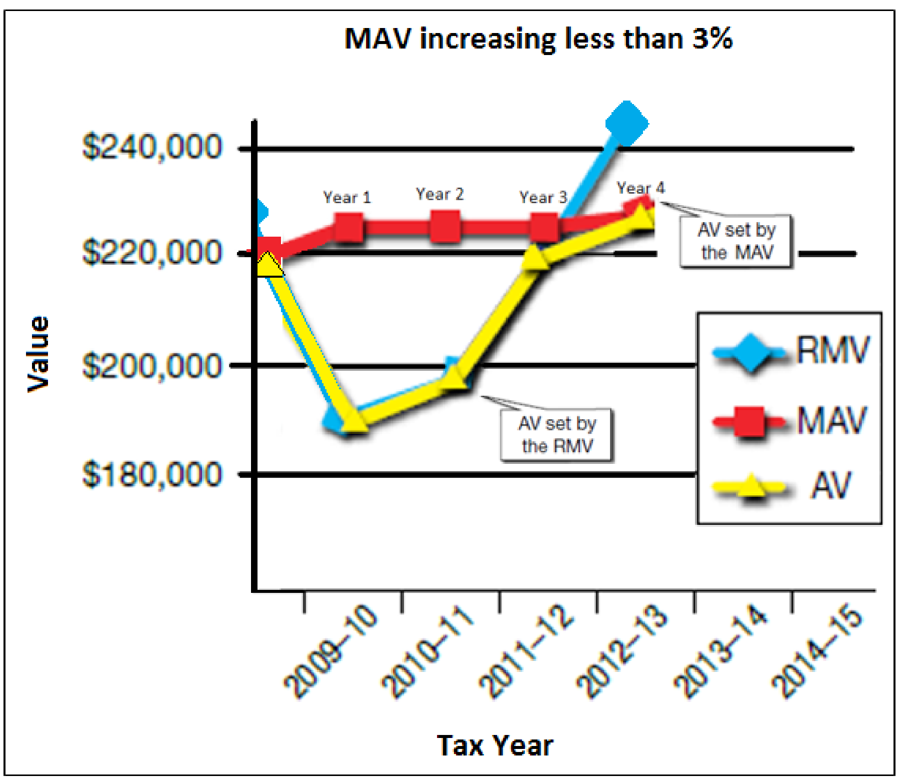
In 2008–09, the RMV ***significantly*** dropped below MAV and the RMV became the basis for calculating the AV for taxes; approximately 14% **less** than the previous year. This illustrates that AV isn't tied to the 3% increase in MAV. From 2009 through 2010–11, the taxpayer continued to benefit from lower taxes because the RMV was lower.

In 2011–12, the RMV came within 3% of RMV. In 2012–13 MAV did increase but **not** up to the maximum 3%.

Then the RMV began increasing rapidly; it crossed back above the MAV allowing the MAV to begin increasing up to the 3% limit as designed by Measure 50.

This next chart is a close-up of a single property that experienced large fluctuations over 4 years. For illustration purposes, values have been added and are ***approximate.***

Two things are illustrated in this very short period of time: MAV may increase by **less** than the 3% and AV can increase or decrease more than the 3% MAV limit because AV is calculated based on the previous year's AV or RMV, whichever is less.



**Both tests are performed annually:**

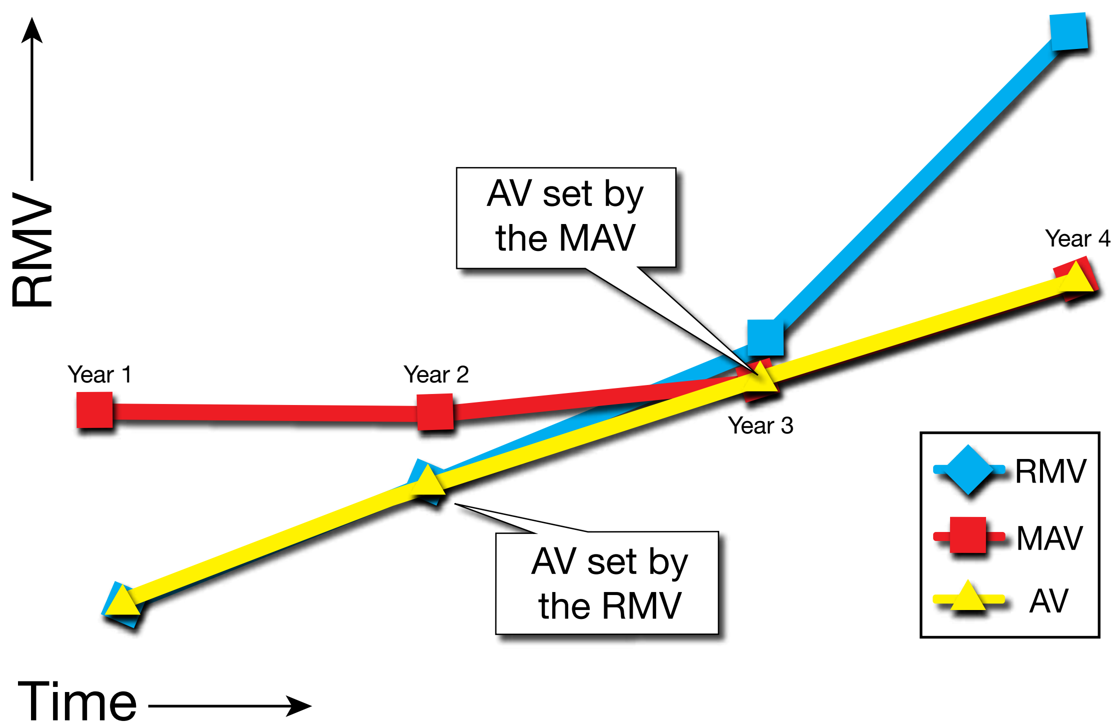
In year 1: First test; Prior MAV ($220,000) is greater than prior years AV x 1.03 = $219,000. MAV is greater and becomes new MAV. RMV plunged downward from $227,000 to $190,000. Second test: Compare RMV ($190,000) to the new MAV ($220,000); RMV is ***less*** and becomes new AV. This is roughly an 18% decline in assessed value.

In year 2: First test: Prior year's MAV ($220,000) is greater than prior years AV ($190,000) x 1.03. Prior year MAV ($220,000) becomes the new MAV and MAV doesn't increase; it can't change in the year after RMV remains over 3 percent ***below*** MAV. RMV compared to new MAV, which is less? RMV becomes assessed value.

In year 3, First test: Prior year's MAV is greater than prior year AV x 1.03. Prior year MAV becomes the new MAV. RMV, which is slightly less than MAV, becomes AV. Note that AV increased by approximately 12%.

In year 4, two things occurred:
- RMV increased above prior year's MAV allowing MAV to begin to move again.
- Prior AV x 1.03 was higher than existing MAV so MAV increased, but by less than 3%. AV increased by 3%.

This last chart is an example of the convergence of the three values and illustrates that MAV may increase any amount between -0- and the maximum 3 percent. In this scenario, MAV increased only 1 percent between years 2 and 3. In year 3, RMV crossed above the MAV and increased well above 3 percent which allowed the MAV to continue upward increasing at the maximum 3% in year 4.




**Recap:** Measure 50 established the 1997–98 maximum assessed value (MAV) as 90% of a property's 1995–96 real market value (RMV) and established assessed value (AV) which can't be greater than RMV. Each year the two tests are performed to establish MAV and AV for each account that requires MAV in the assessment year.

Test 1: Establish ***MAV****:* The 103 Percent Test:

- Calculate the prior year's assessed value x 1.03.
- Compare to prior year's maximum assessed value.
- Whichever is **greater** becomes the current maximum assessed value (MAV).
- MAV can't increase by ***more than*** three percent (the **maximum**); or
- MAV may increase anywhere ***between*** -0- and 3 percent each year; or
- MAV can't change (freezes) in the year ***after*** RMV falls more than 3% below MAV.

Test 2: Establish ***AV****:* Second test; Whichever is less wins this test:

- Compare current maximum assessed value (MAV) to RMV.
- Whichever one is **less** becomes the new assessed value (AV).

In addition:

- MAV is strictly driven by a mathematical formula.
- MAV will never go down in the normal course of events.
- MAV isn't fair. For a variety of reasons, two houses side-by-side with ***the same RMV*** may have dramatically different MAV's and, therefore, dramatically different tax burdens:
- AV can increase or decrease more than the 3% MAV limit.
- Measure 50 also changed the property tax system from "levy based" to a ***permanent rate based system.***

# Section 2—Introduction to basic property classification

Before we can delve into exceptions to the MAV limitation, we must cover some basic foundational practices. It may seem strange to begin our discussion on exceptions to MAV by looking at the property classification system but being able to understand how each individual parcel of property is classified is necessary to fundamentally ensure that properties are treated uniformly. In order to assess the thousands of properties that exist in each county the assessor must classify and assign a property classification code number that supports the highest and best use of the property. For example, single family homes that are being used as a home are identified as residential use, whereas a retail grocery store would be identified as commercial use a different property classification entirely.

Property classification has a rational basis and helps to protect the uniformity of classification of property. Once assigned, most parcels of property maintain the same property class annually. These classifications organize the data for future observations, calculations and annual studies.

OAR 150-308-0310 governs property classification. The assessment roll must include the property classification code number for each parcel of real property in the county, except for those properties assessed by the department under ORS 308.505 to 308.665 (utilities, railcars). All classifications must be based upon highest and best use of the property. The term "highest and best use" is defined in OARs 150-308-0240 and 150-308-0260. The class associated with the property may or may not be its current use.

### (8) Definitions for property classification system:

**Basic Property Classes**

| First Digit | Second Digit | Third Digit |
|---|---|---|
| 0-Miscellaneous | 0-No Significance | 0-Vacant |
| 1-Residential | 1-Residential zone | 1-Improved |
| 2-Commercial | 2-Commercial zone | 2-Condominium |
| 3-Industrial | 3-Industrial zone | 3-State responsibility |
| 4-Tract | 4-Unzoned farmland | 4-Partially exempt |
| 5-Farm | 5-Exclusive Farm Use (EFU) | 5-Taxable leased |
| 6-Forest | 6-Small Tract Forestland (STF) | 6-Waterfront |
| 7-Multi-family | 7-Permanent Farm-Use (Disqualified due to ORS 215.236) | 7-Mobile home parks |
| 8-Recreation | 8-Mult. Spec. assessments | 8- (Left blank) |
| 9-Exempt | 9-Potential development | 9-Manufactured Structure |

The property classification system uses a three-digit number to represent all property types and the assessor is required to maintain the proper classification on each parcel of property based on highest and best use of the property.

The first digit of the property class system also determines "primary type of use" of the property. The Property class is the basis for compiling the data for calculating the changed property ratio (CPR). In order to compute the exception MAV and add the associated increase in exception value to the assessment role, the RMV and

MAV of all the ***unchanged*** properties in each property class is arrived at first. Without this information, it wouldn't be possible to calculate the exception ratio (CPR) for all the properties that **have** changed.

In addition, there are ***some*** instances when the property classification on record changes in a given year as outlined in:

## OAR 150-308-0100 Determining maximum assessed value when the property class is changed.

(1) The single act of changing the property classification, described in OAR 150-308-0310, to better reflect **the highest and best use of the property, *doesn't qualify as an exception*** to the 3 percent limitation on growth in the maximum assessed value (MAV), as described in ORS 308.146(1).

(2) Any exception value added to the base MAV after the change is made to the property class will be calculated by applying the changed property ratio of the current property class to the real market value of any qualified exception identified in ORS 308.146.

This rule illustrates that more than just the "single act" of changing the property classification need to occur in order to qualify for an exception to MAV increase. It does outline which property class will be utilized when making the adjustments. This may be an occasion when the ***new*** property class CPR would be appropriate for calculating the exception MAV when a qualifying event has occurred.

More on these types of exceptions will be covered in later sections.

**Recap:** Property classification is foundational; if you have the correct classification, you can ascertain the overall value of each property and, when properties are deemed affected by allowed exceptions, the correct adjustments to maximum assessed value can be achieved.

The first digit of the property class determines the property type and this is used for calculating the CPR for each property class and allows for new property to receive the benefit of Measure 50.

# Section 3—Changes to property and the changed property ratio

Specific types of changes to the property that increase RMV can change MAV more than the 3 percent limit. These changes are referred to as "exceptions" because they represent exceptions to the normal 3 percent limit. For a change to qualify as an exception, it must fall within one of the following:

- New property or new improvements to property.
- The property has been partitioned or subdivided.
- The property has been rezoned and is being used consistent with the rezoning.
- Previously omitted property has now been taken into account.
- The property has been disqualified from exemption, partial exemption, or special assessment.
- A lot line adjustment is made, but the total assessed value of all property affected by the adjustment won't exceed the total MAV the property would have had if the lot line adjustment hadn't occurred.

## Changed property ratio (CPR)

To determine the adjustment to MAV for an exception, the general rule is to multiply the RMV of the exception (the value of the changed property) by the CPR and add the product to MAV. This provides the changed property the same Measure 50 benefits as property that originally existed in 1995.

The classification system described in Section 2 organizes the data for the calculation of the CPR. However, only the first digit of the property class (representing highest and best use) needs to be considered for purposes of calculating the CPR. Therefore xx represent the second and third digits in the following list of classifications:

| | |
|---|---|
| 0xx—Miscellaneous | 1xx—Residential |
| 2xx—Commercial | 3xx—Industrial |
| 4xx—Tract | 5xx—Farm |
| 6xx—Forest | 7xx—Multi-family |
| 8xx—Recreation | |

The CPR for each property classification represents all property within the county for that classification. The CPR is calculated as the following ratio:

$$\text{CPR} = \frac{\text{Average MAV of unchanged property}}{\text{Average RMV of unchanged property}}$$

The average MAV is the total of MAVs for all properties in a class divided by the number of accounts for that class. Properties with exceptions aren't included in the calculation of the average MAV.

The average RMV is the total of RMVs for all properties in a class divided by the number of accounts for that class. Properties with exceptions aren't included in the calculation of the average RMV.

For properties that are partially specially assessed, only the portions not specially assessed will be used to calculate the ratio. Property classes may be combined to arrive at a ratio. The resulting ratio would become the CPR for each property class used to calculate the ratio. Property class 1xx includes all manufactured structures and floating homes not assigned to other property classes.

## OAR 150-308-0170 Establishing a Changed Property Ratio (CPR)

(1) The assessor must establish a CPR for property classes -0- through 8 each assessment year. For determining the ratio of the average maximum assessed value over the average real market value, **only the first digit of the property class needs to be recognized.** These ratios must be rounded to **three decimals.**

(a) Property classes may be combined to arrive at a ratio. The resulting ratio would become the CPR for each property class used to calculate the ratio.

(b) For specially assessed properties, only the non-specially assessed portion of value will be used to determine a ratio. For specially assessed properties such as farm or timber, the assessor may use either of the following methods to arrive at a CPR:

(A) The non-specially assessed portion of the unchanged 5-x-x or 6-x-x property classes may be used to create the CPR for those classes; or,

(B) The 4-x-x property class values may be combined with the non-specially assessed values from the 5-x-x and/or 6-x-x property classes to calculate the ratio. The resulting ratio would become the CPR for each property class used to calculate the ratio.

(2) Residential property class (1-x-x) includes all manufactured structures and floating homes not assigned to other property classes.

(3) For locally and centrally assessed property, the value of the CPR may not be greater than 1.000.

## OAR 150-308-0140 Computation of Changed Property Ratio for Centrally Assessed Property

The ratio of average maximum assessed value to average real market value, also known as the changed property ratio, shall be rounded to two decimal places for purposes of assessed value calculation. See also OAR 150-308-0570. Note: Centrally assessed properties are only assessed by the Department of Revenue.

In addition, for properties that are partially specially assessed, only the portions not specially assessed will be used to calculate the ratio.

Property classes may only be combined as stated in OAR 150-308-0170 to arrive at a ratio.

In the case of a zone change that actually impacts the first digit of the property class, here is the authority to utilize the current (new) property type to determine CPR calculations:

## OAR 150-308-0100 Determining Maximum Assessed Value when the Property Class is changed

(1) The **single act** of changing the property classification, described in OAR 150-308-0310, to better reflect the highest and best use of the property, **doesn't qualify** as an exception to the 3 percent limitation on growth in the maximum assessed value (MAV), as described in ORS 308.146(1).

(2) Any exception value added to the base MAV ***after the change is made to the property class*** will be calculated by applying the changed property ratio of the ***current property class*** to the real market value of any qualified exception identified in ORS 308.146.

## Calculating the CPR—Changed property ratio

To determine the **annual CPR ratios** for ***each property class*** involves a step by step procedure and is in conjunction with certifying the assessment roll. This may be performed by a data analyst as it encompasses thousands of properties on the roll.

Once the adjustments to RMV for all properties has been certified, the average MAV and average RMV are then calculated for all ***unchanged*** properties following the rule for establishing CPRs (including the rounding parameters). The resulting CPR ratio for each property classification has now been completed and will be utilized for making adjustments to MAV for properties having allowable changes in exception value.

Step 1—Compute the average MAV: The average MAV is the total of MAV for all properties in a class divided by the number of accounts for that class. Properties with exceptions are not included in the calculation of the average MAV.

Step 2—Compute the average RMV: The average RMV is the total of RMV for all properties in a class divided by the number of accounts for that class. Properties with exceptions are not included in the calculation of the average RMV.

Step 3—Compute the CPR for the property class and remember: These ratios must be rounded to **three decimals for all property types except centrally assessed:**

$$\text{CPR} = \frac{\textbf{Average MAV of unchanged property in the same area in the same property class.}}{\textbf{Average RMV of unchanged property in the same area in the same property class.}}$$

## Industrial property

Industrial property is generally dominated by real property machinery and equipment. Since machinery and equipment depreciate over time, they will generally have a CPR of one. However, some industrial warehouses aren't significantly different than commercial warehouses. This results in similar types of buildings receiving significantly different MAVs when they are first constructed, which leads to protracted litigation.

In 2012, the Oregon Legislature addressed this problem by requiring real property machinery and equipment to be classified separately. The legislation also classified industrial property, which is appraised by the department under ORS 306.126 separately. Industrial property, other than machinery and equipment, appraised by the county assessor is combined with commercial property to calculate the CPR.

The goal of each of the remaining sections will be for the reader to have the ability to:

- Determine if an exception to the 3 percent growth limitation of MAV is allowable by law.
- Calculate exception values correctly for each circumstance.
- Clearly explain the MAV adjustments to tax payers, BoPTA, and others with a need to know.

We will be covering each of the exception events listed in ORS 308.146(3) and at the beginning of this section. Some of these sections require more complex calculations so we may address them out of the sequence they appear in statute.

There are procedures for each exception; those will be listed before the actual examples including calculations take place. Becoming familiar with each nuance is an important part of applying exception value correctly.

# Section 4—Calculating MAV for new property or new improvements

New property and new improvements to property are common exception events. First, we will cover some definitions and test our knowledge on which definition qualifies in a couple of scenarios. After we are confident in relating to the definitions, actual math examples will be given in this chapter for ease of application. We will then show a more complex scenario-that of adding an addition to an already existing improvement. These will assist in building foundational knowledge for more complex situations that may arise.

### Definitions:

**New construction:** Any new structure, building, addition, or improvement to the land (including site development).

**Reconstruction:** Building or replacing the existing structure with one of comparable utility.

**Major addition:** An addition with an RMV of over $10,000 and that adds square footage to an existing structure.

**Remodeling:** A type of renovation that changes the basic plan, form, or style of the property.

**Renovation:** The process by which older structures or historic buildings are modernized, remodeled, or restored.

**Rehabilitation:** To restore to a former condition without changing the basic plan, form, or style of the structure.

If you build a brand new home on bare land, does this qualify for exception MAV? If so, which definition supports this conclusion?
- New construction? Yes, this is a brand new structure.
- Reconstruction? No, this did not replace the existing ***structure.***
- Major addition? No, no square footage was added.
- Remodeling? No, this didn't change a basic plan, form or style of the property.
- Renovation? No, it's not an older or historic structure being modernized, remodeled, or restored.
- Rehabilitation? No, it wasn't restored to a former ***condition.***

If you upgrade your kitchen in your 2010 home, which adds $28,000 in value to your home, does this qualify for exception MAV? Which definition supports this conclusion?
- New construction? No, not a new structure.
- Reconstruction? No, this didn't replace the existing ***structure.***
- Major addition? No, no square footage was added.
- Remodeling? Yes, the upgrade resulted in a renovation that changed the basic plan, form or style.
- Renovation? No, it's not an older or historic structure being modernized, remodeled, or restored.
- Rehabilitation? No, it wasn't restored to a former ***condition.***

## Manufactured structures or floating homes

New property and/or improvements exceptions for manufactured structures or floating homes can be from siting, installation, or rehabilitation.

## Other changes

New property and/or improvements exceptions can also result from the addition of:

- Machinery.
- Fixtures.
- Furnishings.
- Equipment.
- Other taxable real or personal property.

## Property moved between tax code areas

Property is considered to be new or improved if taxable property is located in a different tax code area on January 1 of the current assessment year than on January 1 of the preceding assessment year.

## Retirements

Value attributable to new property and/or new improvements may be offset by value loss due to retirements in the same year. Adjustments to MAV are based on the net increase in RMV ***after deduction*** for retirements, multiplied by the CPR for the property's class. Offsets due to value loss by retirements in the same year can't go below zero.

For buildings, if MAV is adjusted as a result of a fire or act of God, or demolition or removal of the building, it ***isn't*** considered a retirement. For more information on both of these situations, see the corresponding rules: **OAR 150-308-0120** Reduction of Maximum Assessed Value (MAV) When a Building is Demolished or Removed, **OAR 150-308-0110** Reduction of Maximum Assessed Value (MAV) for Property Destroyed or Damaged by Fire or Act of God.

## Integral property

ORS 308.153(3) provides that property that has been continuously in existence since a prior tax year but wasn't included in an assessment for any prior tax year shall be considered new property, or new improvements to property. This provision applies where the property that hasn't been assessed is an integral part of the land or improvements on the assessment roll, either on the assessment date or the date of a site inspection by the assessor for appraisal purposes for any prior tax year. The Oregon Tax Court has ruled that such property doesn't constitute omitted property under ORS 308.156 and 311.216.

## MAV adjustment

The proper method is to determine the current RMV of the property as it now exists and subtract what the current RMV of the property would have been as if no new property had been added during the prior year. This ensures any changes in value over time are eliminated from the calculation.

So, for any new property exception, **Exception RMV** equals:

> RMV of the property as of the current assessment date minus the RMV the property would have had if the exception didn't occur as of the current assessment date.

To calculate the ***adjustment*** to MAV, the CPR for the corresponding property class is multiplied by the Exception RMV of ***only*** the affected/new property or new improvements. The formula would be:

> Exception RMV of new property x CPR = Exception MAV adjustment.

Then we just add together the base MAV and the Exception MAV adjustment to arrive at the new MAV:

> Exception MAV adjustment + Base MAV = New MAV (Only one MAV per account).

If the new property consists of stand-alone new construction, such as a new building, its RMV is simply the RMV of the building. However if the new improvement is a remodel or restoration, the determination of RMV can be trickier. We will cover some examples so the mathematical calculations are clear.

A common error is to calculate RMV of new improvements as the difference between the RMV of the property for the current year and the RMV of the property on the tax roll for the prior year. However, that calculation also includes changes to the value of the existing property due to market fluctuations.

The proper method is to determine the RMV of the property for the year in question and subtract what the RMV of the property would have been as of that same date if no new property had been added, or other exception event had occurred, during the prior year. This ensures any changes in value over time are eliminated from the calculation.

So, for any exception, **RMV of the exception** equals:

> RMV of the property as of the current assessment date minus RMV the property would have had if the exception didn't occur.

## Calculating the MAV for a new improvement

There are 6 steps in determining the new MAV for a property on which new improvements have been added. It's important to note that there is only one MAV per account.

Step 1: Establish base MAV: Always start with the property as if no changes had occurred. Apply the 103 percent test from section 2. This results in the Base MAV.

Step 2: Determine the unaffected RMV: Determine what the RMV of the property would be if property ***hadn't changed*** (unaffected).

Step 3: Determine the new RMV of the property with the changes (affected portion and possibly unaffected portion).

Step 4: Calculate the amount of exception RMV:

> New RMV—Unaffected RMV = Exception RMV

Step 5: Calculate the exception MAV: this we be the amount we are authorized to add to MAV:

> Exception RMV x CPR = Exception MAV

Step 6: Calculate the new MAV:

> Exception MAV + Base MAV = New MAV (Only one MAV per account)

### New improvement example #1:

During 2015, the homeowner adds a covered porch to the home. RMV for the home increases to $280,000 for the 2016–17 tax year (due partly to market appreciation). If the homeowner hadn't added the covered porch, the RMV for the 2016–17 tax year would have been $268,000.

The home had the following values for the 2015–16 tax year:
RMV = $ 250,000
MAV = $ 180,000
AV = $ 180,000

The CPR for residential 1xx property will be 0.790 for the 2016–17 tax year in that county.

Step 1: Establish base MAV: Start with the property as if no changes had occurred. Apply the 103 percent test from section 2. This results in the Base MAV.

AV—$180,000 x 1.03 = $185,400 or MAV-$180,000. Which one is greater? = AV x 1.03.

Base MAV = $185,400

Step 2: Determine the unaffected RMV: Determine what the RMV of the property would be if property ***hadn't changed*** (unaffected).

Unaffected RMV for 2016–17 = $268,000

Step 3: Determine the new RMV of the property with the changes:

RMV for 2016–17 = $280,000

Step 4: Calculate the amount of exception RMV:

New RMV—Unaffected RMV = Exception RMV

$280,000 - $268,000 = $12,000 exception RMV

Step 5: Calculate the exception MAV: this is the amount we are authorized to add to MAV:

Exception RMV x CPR = Exception MAV

$12,000 x 0.790 = $9,480 exception MAV

Step 6: Calculate the new MAV:

Exception MAV + Base MAV = New MAV (Only one MAV per account)

$9,480 + $185,400 = $194,880

| New Improvement Example #1 - Property has a **new improvement** and qualifies for exception event | | | | |
|---|---|---|---|---|
| During 2016, the homeowner **adds a covered porch** to the home. RMV for the home increases to $280,000 for the 2016-17 tax year, due partly to market appreciation. The RMV for the 2016-17 tax year would have been $268,000 if the homeowner hadn't added the covered porch. | | | | |
| ORS 308.146(3)(a) new improvement | | | | |
| | 2015-16 | 2016-17 "As IF" Unchanged | 2016-17 New Values | |
| RMV Land | $53,000 | $62,000 | $62,000 | |
| RMV OSD | $13,000 | $13,000 | $13,000 | |
| RMV Improvements | $180,000 | $193,000 | $205,000 | |
| Total RMV | $246,000 | $268,000 | $280,000 | |
| MAV = | $180,000 | $185,400 | $194,880 | |
| AV = | $180,000 | ---- | $194,880 | |
| | | | | |
| Base MAV | | $185,400 | AV x 1.03 = $185,400 or MAV $180,000 which one is greater becomes Base MAV | |
| Unchanged RMV | | $268,000 | RMV with market appreciation as if property unaffected by a change (i.e. no porch) | |
| New RMV | | $280,000 | New RMV includes new covered porch added to home | |
| Exception RMV | | $12,000 | New RMV (280,000) - Unaffected RMV (268,000) = Exception RMV (12,000) | |
| Exception MAV | | $9,480 | Math: 12,000 x 0.790 = $9,480 Exception MAV | |
| New One MAV | | $194,880 | Base MAV ($185,400) + Exception MAV ($9,480) | |

## New house improvement example #2:

A three bedroom, two bath home was built on a lot. The project was started and was 100% completed in 2016.

The lot had the following values for the 2015–16 tax year:

RMV LAND = $ 87,000
RMV OSD = $ 0
RMV IMP = $ 0
MAV = $ 75,000
AV = $ 75,000

The CPR for residential 1XX property will be 0.790 for the 2016–17 tax year in that county.

| New SFD Improvement Example #2-New House Built in 2016, property has a **new improvement** and qualifies for exception value | | | | |
|---|---|---|---|---|
| A three bedroom, two bath home was built on a lot. The project was started and was 100% completed in 2016. | | | | |
| ORS 308.146(3)(a) new improvement | | | | |
| | 2015-16 | 2016-17 "As IF" Unchanged | 2016-17 New Values | |
| RMV Land | $85,913 | $87,000 | $87,000 | |
| RMV OSD | $0 | $0 | $13,000 | |
| RMV Improvements | $0 | $0 | $205,000 | |
| Total RMV | $85,913 | $87,000 | $305,000 | |
| MAV | $75,000 | $77,250 | $249,470 | |
| AV | $75,000 | | $249,470 | |
| | | | | |
| Base MAV | | $77,250 | AV x 1.03 = $77,250 or MAV $75,000 which one is greater becomes Base MAV | |
| Unaffected RMV | | $87,000 | RMV with market appreciation as if property unaffected by a change (i.e. no SFD) | |
| New RMV | | $305,000 | New RMV includes SFD (OSD's were already picked up in prior year-subdivision) | |
| Exception RMV | | $218,000 | New RMV - unaffected RMV = Exception RMV | |
| Exception MAV | CPR = 0.790 | $172,220 | Exception RMV * CPR = Exception MAV: Math: $218,000 x 0.790 = $172,220 | |
| New One MAV | | $249,470 | Base MAV ($77,250) + Exception MAV ($172,220) | |

# Section 5—General ongoing maintenance and repair

New property or new improvements to property **don't** include general ongoing maintenance and repair (GOMAR). GOMAR preserves the condition of the existing improvements. It allows improvements to achieve a useful life that is typical for the type and quality of the original improvements. Regardless of the cost, the value of GOMAR may not be included as additions for the calculation of MAV.

GOMAR allows for the replacement of worn out components. A change to the modern equivalent of original materials for the same class of construction is allowed, such as the replacement of old aluminum frame windows with new vinyl windows that would be used in the same class of building today.

GOMAR doesn't include new structures or additions, or any significant changes in the design of property. It doesn't include the replacement of original materials with substitutes of a higher quality class or that increase the useful life of the property beyond what would otherwise be typical. For example, if the aluminum frame windows discussed above were replaced by triple pane, hurricane-rated vinyl windows expected only in a higher class of construction, the difference in value between the upgraded windows and windows that are equivalent to the original material should be considered an exception.

For income producing properties, GOMAR must be part of a regularly scheduled maintenance program. This can include improvements that occur either on a frequent basis, or for which funds are set-aside in anticipation of infrequent maintenance activities.

The determination of whether an improvement constitutes GOMAR or an exception is the most subjective issue relating to MAV. While the examples below are intended to provide some guidance regarding what is and what isn't GOMAR, factors in each specific situation must be considered. You must determine whether the activity maintains the property as it existed when first constructed, or improves the property beyond what was originally constructed.

For some guidance from the Oregon Tax Court, refer to the decisions in *Hoxie v. Department of Revenue,* 15 OTR 322 (2001) and *Magno v. Department of Revenue,* 19 OTR 51 (2006), in the appendix.

Examples which typically **qualify** as GOMAR include:

- Replacing a worn out composition roof cover on a house with a new one of like quality and material.
- Resurfacing or hot-mopping a 40,000 square foot built-up roof on an industrial structure.
- Replacing defective siding with a non-defective equivalent.
- Replacing a few broken deck boards on a marine pier to maintain normal and constant use.
- Replacing a worn bearing in a board edger (equipment) at the sawmill.
- Replacing worn out kitchen floor covering, appliances, and counter tops in a house.
- Annually repainting the interiors, re-carpeting, and replacing countertops and lavatories in 20 percent of the rooms of a four-star hospitality property (hotel).

Examples which typically **don't qualify** as GOMAR include:

- Replacing a deteriorated composition roof cover with a roof of superior materials, such as tile or heavy shakes.
- Adding a second floor to a house (adds additional square footage).
- Expanding the floor area of a processing plant.
- Replacing all or most decking boards on a pier (constitutes reconstruction).
- Replacing a board edger at the sawmill (the complete replacement of an item isn't maintenance).
- Replacing kitchen floor covering, appliances, counter tops, and cabinets in a 10-year-old house. (This wouldn't be typical for most homes of this age. There may or may not be an increase in RMV. If there is, then there will be a corresponding increase in MAV. Usually replacing 10-year-old kitchen cabinets is more than just maintaining the property.).
- Repainting the interiors, re-carpeting, and replacing countertops and lavatories in all of the units of a motel. Since it impacts a substantial portion of the property, it would qualify as rehabilitation.

# Section 6—Minor construction

## ORS 308.149 Definitions for ORS 308.149 to 308.166

(5) "Minor construction" means additions of real property improvements, the real market value of which ***doesn't exceed*** $10,000 in any assessment year or $25,000 for cumulative additions made over five assessment years.

### OAR 150-308-0160 Minor Construction

(1) Definition: "Minor construction" is an improvement to real property that results in an addition to real market value (RMV), but doesn't qualify as an addition to maximum assessed value (MAV) due to ***a value threshold.*** The value threshold is an RMV of over $10,000 in any one assessment year, or over $25,000 for all cumulative additions made over five assessment years.

(2) Minor construction doesn't include general ongoing maintenance and repairs.

(3) When testing the over $25,000 threshold, use the ***cumulative RMV of all minor and major construction*** over a period not to exceed five consecutive assessment years.

(a) Minor and major construction values are ***not market trended.***

(b) Values for retirements are not considered in the threshold test.

(c) Values for minor construction items that are removed or destroyed prior to being an adjustment to MAV are subtracted from the minor construction cumulative RMV.

(4) Once the over $25,000 threshold is met, use the following steps to calculate the MAV adjustment:

(a) Use minor construction values that are not market trended.

(b) Make adjustments for any retirements from the prior assessment year. The net value of additions and retirements may not go below zero.

(c) Apply the changed property ratio (CPR) from the year the cumulative RMV becomes an addition to MAV.

(d) Reset the cumulative RMV for minor construction to zero and restart the 5-year period. The following examples demonstrate the over $25,000 threshold. RMVs in the following examples are not market trended and/or depreciated.

Minor construction means additions of real property improvements where RMV doesn't exceed $10,000 in one year, and the total accumulated RMV of the improvements doesn't exceed $25,000 in five consecutive years.

Minor construction results in an increase in RMV, but doesn't qualify as an addition to MAV ***until one of the valuation thresholds has been surpassed.*** In the year that minor construction is added to RMV, the properly trended RMV of the minor construction for that year, ***is added to the minor construction pool,*** which is tracked for five cumulative and consecutive years. Once in the pool, these values aren't market trended again.

Values for minor construction items that are removed or destroyed prior to a MAV adjustment are subtracted from the minor construction pool.

In addition, the RMV of any retirements aren't considered when determining if either threshold has been met.

If the RMV of new improvements exceeds the $10,000 threshold in a single year, this would qualify for an adjustment to MAV as a major construction improvement plus the RMV of those improvements are ***still*** added to the minor construction pool.

Minor construction doesn't include GOMAR.

When the $25,000 threshold is exceeded ***within a consecutive five-year period,*** the RMV in the pool minus the RMV of any new improvements **that already resulted in an adjustment to MAV** (because they exceeded the $10,000 threshold) becomes the RMV of the exception. In addition, adjustments for any retirements for the year that the $25,000 threshold is exceeded must be made prior to calculating the MAV adjustment. The CPR for the year the cumulative RMV exceeds the $25,000 threshold is used to calculate the MAV adjustment.

Whenever the $25,000 threshold is exceeded and an adjustment is made to MAV, the cumulative RMV in the pool is reset to zero, and the five-year period is restarted.

OAR 150-308-0160 provides the following examples to illustrate how RMV is tracked in the minor construction pool, and how adjustments to MAV are made when the thresholds are exceeded.

*RMVs in the following examples aren't market trended and/or depreciated.*

**Example 1—Over $25,000 not met**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,000 | $8,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | None | $8,000 | No change. |
| 3 | $7,000 | $15,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 4 | None | $15,000 | No change. |
| 5 | $5,000 | $20,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |

**Example 2—Over $25,000 not met, prior years drop off**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,000 | $8,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | None | $8,000 | No change. |
| 3 | $5,000 | $13,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 4 | None | $13,000 | No change. |
| 5 | $7,000 | $20,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 6 | $11,000 | $23,000 | Year 6 qualifies individually as is over $10,000. Prior years still don't qualify, as 5 year cumulative total is under $25,001. (Remember, year 1 has dropped off the 5 year cumulation. $11,000 x CPR = adjustment to MAV.) |

| Example 3—Cumulative RMV reset | | | |
|---|---|---|---|
| **Year** | **New improvement value** | **Cumulative total** | **Comment** |
| 1 | $8,500 | $8,500 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | $100,000 | $108,500 | Year 2 qualifies individually as RMV is over $10,000. Year 1 qualifies as 5 year cumulative total is over $25,000. $108,500 x CPR = adjustment to MAV. Cumulative total and five year period reset for the next year. |
| 1 | $9,500 | $9,500 | Cumulative total and five year period have reset. Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |

| Example 4—Cumulative RMV reset | | | |
|---|---|---|---|
| **Year** | **New improvement value** | **Cumulative total** | **Comment** |
| 1 | $8,000 | $8,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | $5,000 | $13,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 3 | $15,000 | $28,000 | Year 3 qualifies individually as RMV is over $10,000. Years 1 and 2 qualify as 5 year cumulative total is over $25,000. $28,000 x CPR = adjustment to MAV. Cumulative total and five year period reset for the next year. |
| 1 | None | $0 | Cumulative total and five year period have reset. |

**Example 5—Individual year and cumulative year adjustments**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $5,000 | $5,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | None | $5,000 | No change. |
| 3 | $15,000 | $20,000 | Year 3 qualifies individually as RMV is over $10,000. Year 1 doesn't qualify as cumulative RMV is under $25,001. $15,000 x CPR = adjustment to MAV. |
| 4 | $7,000 | $27,000 | Years 4 and 1 qualify as cumulative RMV is over $25,000. $12,000 x CPR = adjustment to MAV. Cumulative total and five year period reset for the next year. |
| 1 | None | $0 | Cumulative total and five year period have reset. |

**Example 6—Removal of destroyed minor construction**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,000 | $8,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | $5,000 | $13,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 3 | -$8,000 | $5,000 | Improvement added in year 1 is destroyed and is removed from the cumulative RMV pool. |

# Section 7—Rezoned and used consistently with rezoning

What is zoning and why is it important? Zoning is a tool of urban planning that controls land uses in a city. Land uses are divided into residential, commercial and industrial areas, now referred to as zones or zoning districts in cities.

Why do we have zoning? Zoning laws are government restrictions on how a particular piece of land can be used or developed and is established by a governmental body that regulates zoning.

What does zoning do? Besides restricting the uses that can be made of land and buildings, zoning laws also may regulate the dimensional requirements for lots and for buildings on property located within the town and the density of development (floor area ratio and/or site coverage). Zoning can protect the value of property by assuring that incompatible uses will be kept apart; such as building an industrial plant in a residential neighborhood. Zoning also provides for more orderly development.

What happens when zoning changes? The governmental body that regulates zoning has the responsibility of changing zoning and the assessor's office may or may not receive information on changes from these governmental bodies. It is still the responsibility of the assessor's office when performing appraisals to verify if zoning has changed when questions arise. This can impact the RMV, since RMV is based upon a property's highest and best use.

**OAR 150-308-0240(1)(e)** "Highest and best use" means the reasonably probable **use** of vacant land or an improved property that is legally permissible, physically possible, financially feasible, and maximally productive, which results in the highest real market value.

It is not enough for property to be rezoned to calculate an exception to the 3 percent growth limitation for MAV. ORS 308.146(3)(c) indicates ***two*** requirements must be met to qualify:

1. Property is rezoned, and
2. Property must ***also be used consistently with the rezoning*** to qualify for MAV exception value to be added to the roll.

In the fall of 2016, OAR 150-308-0200, Rezoned property—Calculating maximum assessed value (MAV), was rewritten to provide more in-depth guidance. Included in the new descriptions are:
- **Definitions** of necessary terminology have been added at the beginning of the rule and provide significant clarification;
- **"Primary use"** and **"Accessory use"** are clearly defined;
- Rezoning is described as three distinct, qualifying changes in zone designations or allowed property use made by the governmental body.

## OAR 150-308-0200 (In part) Rezoned property—Calculating maximum assessed value (MAV)

(1) For the purposes of determining MAV under ORS 308.142 to 308.166 and this rule, the following **definitions** apply:

(a) "Primary use" means an activity or combination of activities of chief importance on the site and is one of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use, such as mixed use buildings with commercial use on the ground floor and residential use on upper floors.

(b) "Accessory use" means a use or activity that is incidental and subordinate to the primary use of the property. A use designated as "accessory "or "auxiliary" by an applicable zoning code is presumed to be accessory unless that designation is clearly inconsistent with the ordinary legal meaning of "accessory," as determined by relevant criteria such as the relative size of the area used and the impact of the use on the surrounding neighborhood. Accessory uses may include, but are not limited to:

(A) In residential zones, recreational activities, hobbies, home businesses, or pet raising;

(B) In commercial office zones, cafeterias, health facilities, or other amenities primarily for employees;

(C) In commercial retail zones, offices or storage of goods;

(D) In industrial zones, storage, rail spurs, lead lines, or docks;

(E) Parking in any zone, unless commercial parking is designated or allowed as a primary use, such as for parking structures; and

(F) Accessory structures such as accessory dwelling units limited in size, garages, car ports, decks, fences, and storage sheds.

(c) "Type of use" means one of the uses defined in OAR 150-308-0310.

(d) "Floor area ratio" means the relationship of the total allowed area of above ground floors of a building to the total area of the parcel of land on which it is sited.

(e) "Site coverage ratio" means the relationship of the total area covered by the footprint of a building to the total area of the parcel of land on which it is sited.

(f) "Rezoned" means on or after July 1, 1995, the governmental body that regulates zoning:

(A) Made any change in the zone designation, including but not limited to an overlay, plan district, or floating zone designation, of the property;

(B) Made a change in one or more of the permitted primary types of use of the property; or

(C) Made a change in:

(i) The number of dwelling units, other than accessory dwelling units, allowed per acre, or other legal limitation on the number of dwelling units, other than accessory dwelling units, in a given area;

(ii) The allowed floor area ratio; or

(iii) The allowed site coverage ratio.

## Additional questions to qualify for rezoned:

In addition to providing clearer definitions, supplementary questions need to be investigated to determine if a property actually qualifies as rezoned. What appeared to be "a simple two-part qualification", as previously indicated in statute, gives rise to these questions:

1. What are the definitions of "Primary" and "Accessory" use?
2. Can new Accessory uses qualify for rezoned?
3. What is "Type of Use"? Can it change? Does it always trigger exception?
4. What does floor area ratio mean and why is this important?
5. What does site coverage ratio mean and why is this important?
6. What is "Rezoned" and why is it date specific?
7. So when has property been rezoned?
8. What does it mean to be used consistently with the rezoning?
9. When a property qualifies for rezone and consistent use Exception…Now what?
    a. What does "affected" and "not affected" portions mean?
    b. What are the calculations for determining exception MAV?

A “Rezone matrix” is included at the ***back of this chapter.*** This one page chart is exclusive to rezoning questions and their relationship to the expanded guidance in OAR 150-308-0200. Following the Matrix sequentially should help in determining if rezoning has indeed occurred. Let’s take a look at each question and answer:

## Primary versus accessory uses

**1. What are the definitions of “primary” and “accessory” uses?**

A **primary** use is an activity or combination of activities of chief importance on the site and is one of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use, such as mixed use buildings with commercial use on the ground floor and residential use on upper floors.

An **accessory** use is a use or activity that is a ***subordinate part*** of a primary use of the property and is ***clearly incidental to the primary use*** under the zoning. A use designated as “accessory “or “auxiliary” by an applicable zoning code is presumed to be accessory unless that designation is clearly inconsistent with the ordinary legal meaning of “accessory,” as determined by relevant criteria such as the relative size of the area used and the impact of the use on the surrounding neighborhood. Accessory uses include, but are not limited to:

- In residential zones—recreational activities, hobbies, home businesses, or pet raising.
- In commercial office zones—cafeterias, health facilities, or other amenities primarily for employees.
- In commercial retail zones—offices or storage of goods.
- In industrial zones—storage, rail spurs, lead lines, or docks.
- Parking in any zone, unless commercial parking is designated or allowed as a primary use, such as for parking structures.
- Accessory structures such as accessory dwelling units limited in size, garages, carports, decks, fences, and storage sheds.

Any change in allowed accessory uses doesn’t constitute “rezoning” for purposes of calculating MAV. This includes accessory dwelling units, which are specifically excluded from the definition as noted above.

**2. Can “accessory uses qualify for rezoned?**

Any change in allowed “accessory uses” ***won’t*** constitute “rezoning” for purposes of calculating Exception MAV. This includes accessory dwelling units (ADU), which are specifically excluded from the definition as noted above.

## Type of use

**3. What is type of use? Can it change? Does it always trigger exception MAV?**

The definition of “rezoned” includes changes in the allowed primary type of use, which are identified by the first digit in the property classification system described in section 2. Therefore, changes in the allowed uses that fall within the same type of use don’t constitute rezoning. For example, if a zoning ordinance is amended to allow a beauty school in a commercial office zone, property hasn’t been rezoned as long as the actual zone designation didn’t change. This is because both commercial office use and the new use of a beauty school are ***both within the same type of use,*** which is commercial 2xx.

## Floor area ratio (FAR) and Site coverage ratios

**4. What is floor area ratio (FAR)?**
**5. What is site coverage ratio?**

"Rezoned" also includes a change to either of these two ratios. They are defined as:

Floor area ratio (FAR): The relationship of the total allowed area of above ground floors of a building to the total area of the parcel of land on which it's sited.

Site coverage ratio: The relationship of the total area covered by the footprint of a building to the total area of the parcel of land on which it's sited.

Increasing either or both of these ratios also can have a significant impact on the value of property. A higher ratio allows for more intensive development of the land and changes the nature of the neighborhood.

## Rezoned before July 1, 1995:

6. Why is "rezoned" date specific?

For the purposes of calculating MAV, only property that is rezoned after July 1, 1995, (which is the assessment date for the RMV that originally established MAV under Measure 50), is considered.

Why? If a property was rezoned before July 1, 1995, the RMV of the property would have already reflected an adjustment for those considerations and, when MAV was established, those changes would have already be incorporated in the real market value.

**7. So when has property been rezoned?**

Jurisdictions can significantly alter the allowed uses of property without actually changing the zoning designation. As a result, this may seem like a long and complicated definition of "rezoned." However it really comes down to asking three questions corresponding to the three paragraphs in OAR 150-308-0200(1)(f):

1. Has the governing body that regulates zoning, since July 1, 1995, changed the zone designation of the property? OAR 150-308-0200(1)(f)(A).
2. Has the governing body that regulates zoning, since July 1, 1995, made a change to the zoning ordinances to allow a new type of use, other than an accessory use, of the property? OAR 150-308-0200(1)(f)(B).
3. Has the governing body that regulates zoning, since July 1, 1995, made a change to the number of allowed dwelling units (other than accessory dwelling units) per acre or other given area, or changed the allowed floor area or site coverage ratios? OAR 150-308-0200(1)(f)(C).

If the answer to any one of these questions is yes, then the property has been rezoned. However, the MAV isn't affected unless the property is also used consistently with the rezoning.

**8. What does it mean to be used consistently with the rezoning?**

According to OAR 150-308-0310, all properties have been assigned a property classification which includes a zone designation as the second digit described in section 2. It is when changes to zoning or "re-zoning" occurs and the second test, consistent use, align that MAV exception value is required to be added to the roll.

Property is "used consistently with the rezoning" when it's put to a ***newly*** allowed use. This doesn't include situations where the use of the property was an allowed use both before and after the rezoning. For example, if a vacant parcel is rezoned from single- to multi-family housing, but single-family dwellings are still allowed under the new zone, when a single-family dwelling is constructed the property hasn't been used consistently with the rezoning. Be aware that this example would still qualify for MAV exception; just not under rezoned. See Section 6—"New Improvements" for how this example would qualify.

Both tests, rezoned and use consistent with the rezoning, must be met before MAV can be recalculated as an exception. However it isn't necessary for the rezoning to occur first. For example, a house in a residential zone may be used as a commercial office. When the zoning is later changed from residential to commercial, the property is now used consistently with the rezoning. The commercial use was a nonconforming use under the prior zoning, and is a now a newly permitted use. Therefore this property is now used consistently with the zoning and qualifies for exception MAV.

### Property qualifies as rezoned

When a property or portion of property qualifies as rezoned, now what? Determine if there are "affected" and "unaffected" portions as defined by administrative rule.

## Affected property

**OAR 150-308-0180** defines "affected property" as property that "is subject to one or more of the following events: partitioned or subdivided; added to the account as omitted property; rezoned and used consistent with the rezoning; disqualified from a special assessment, exemption, or partial exemption."

When property is rezoned and used consistently with the rezoning, the affected property includes all improvements that are constructed for or converted to the newly allowed use as described in:

**OAR 150-308-0200**

(2) For the purposes of calculating maximum assessed value when a property is rezoned and used consistently with the rezoning, the portion of the property that is **"affected"** includes:

(a) Improvements that are converted to the newly allowed use; and

(b) All land that supports a newly allowed use, including, but not limited to:

(A) Land under newly constructed or converted improvements put to the newly allowed use;

(B) Ingress and egress related to the newly allowed use;

(C) Access to utilities;

(D) Landscaping;

(E) Yard areas; and

(F) Parking.

In some cases, only a portion of a property tax account may lie within an area (such as a taxing district) that has been rezoned or only a portion of the property may have been used in a manner consistent with a zone change. In this case, you would adjust the MAV of only the affected property for the exception.

As discussed in earlier sections, each property tax account has only one MAV. When one of the allowable exceptions qualifies, MAV must be allocated between the affected and unaffected portions of the property as the unaffected portion of MAV doesn't have an exception event.

The allocation of MAV is proportionate to the allocation of RMV between the affected and unaffected portions of the property.

To begin, an example has been provided for an entire affected property and a second example of the more complex partial rezone containing "affected" and "unaffected" property follows.

**Example #1: Entire property is rezoned and used consistently:**

Property was rezoned from residential to commercial two years ago. Last year, the ***entire*** property was developed under one of the new permitted uses:

A one and a half acre lot has been developed into a bicycle sales and service shop. The shop, including all parking and landscaping, occupies half of an acre and the rest of the land was developed as an off road bicycle skills course. It's determined that the entire property qualifies as rezoned:

Because the rezone affects the entire property, multiply the current year RMV of the entire property by the CPR. This becomes the new MAV for the entire property.

Current year RMV of the affected portion = $750,000.
Current year CPR for this property type = 0.800.
$750,000 x 0.800 = $600,000 (current year MAV for the affected portion).

New: Current year values:
RMV = $750,000
MAV = $600,000
AV = $600,000

**Summary steps:**

**The entire property is rezoned:**
1. Calculate the current year RMV (both land and improvements).
2. Multiply current year RMV by CPR for property class to determine new MAV and AV.
3. Allocate the RMV to the land and improvement portion of the account.

| Example #1-Simple ZONE change: **Entire property is affected; rezoned and used consistently, Reset entire MAV & RMV** | | | | |
|---|---|---|---|---|
| A one and a half acre lot has been developed into a bicycle sales and service shop. The shop, including all parking and landscaping, occupies half an acre and the rest of the land was developed as an off road bicyle skills course. It is determined that the entire property qualifies as rezoned | | | | |
| Authority? YES! ORS 308.146(3)(c) Property is rezoned and used consistently with the rezoning. OAR 150-308-0200(f) | | | | |
| | 2016-17 | 2017-18 | | |
| RMV Land | $250,000 | $280,000 | | |
| RMV OSD | $0 | $20,000 | | |
| RMV Improvements | $0 | $450,000 | | |
| Total RMV | $250,000 | $750,000 | | |
| MAV | $97,088 | $600,000 | | |
| AV | $97,088 | $600,000 | | |
| | | | | |
| New RMV | | $750,000 | | New RMV (what is the RMV as affected?) |
| Exception RMV | | $750,000 | | New RMV is all exception RMV |
| Exception MAV x CPR | 0.800 | $600,000 | | Math: $750,000 * 0.800 = $ 600,000 Exception MAV |
| New One MAV | | $600,000 | | |

**Example #2: Complex: A *portion* of a property is rezoned and used consistently:**

Property was rezoned from residential to commercial in 2015. In 2016–17, a portion of a one and a half acre lot has been developed into a bicycle sales and service shop. The shop, including all parking and landscaping, occupies half of an acre. The rest of the land (one acre) remains undeveloped.

In this more complex example, the rezoning and consistent use affects just a ***portion*** of the property. This means some of the MAV remains unaffected and won't be changed. This requires 6 steps:

For a partial rezoning, we begin with valuing the property as if no changes had occurred:

Prior year 2015–16 values:
RMV = $150,000
MAV = $101,000
AV = $101,000
Current year 2016–17 RMV of affected portion = $700,000 ($20,000 OSD's and $680,000 shop).
Current year 2016–17 CPR for this property type = 0.800.

**Step 1.** Establish base MAV. Start with the property as if no changes had occurred (Apply the 103 percent test).

Multiply the prior year AV by 1.03. Compare the result to the prior year's MAV to determine which one is greater. This becomes the current year Base MAV as if the account hadn't changed:
AV $101,000 x 1.03 = $104,030 or $101,000. Which one is greater? = AV x 1.03.
$104,030 = Current year MAV of the unchanged account.

**Step 2.** Calculate the RMV that remains **unaffected** using the prior year's total RMV: (to establish the value of the "unaffected" portion of RMV).

For this example, we determined that each 0.50 of an acre = $50,000.

Unaffected = 1 acre or 0.50/acre + 0.50/acre.

Result: There is one acre that is unaffected: $50,000 + $50,000 = $100,000 (Prior year RMV of unaffected portion).

**Step 3.** Calculate the RMV ratio (to establish the percentage of the "unaffected" portion of RMV).

Divide the prior year RMV of unaffected portion by the prior year's total RMV for the whole account. This produces the percentage of the account that is unaffected by the change to the property. The formula is:

$$\frac{\text{Prior year RMV of unaffected portion}}{\text{Total prior year RMV}} = \text{Percent of account unaffected}$$

$100,000 Prior year RMV of unaffected portion (one acre).
$150,000 Total prior year RMV of one and one half acres.

Formula applied:

$$\frac{\$100{,}000}{\$150{,}000} = 0.666 \text{ or } 66.6\% \text{ (percentage of the account that is unaffected)}$$

RMV Ratio = 0.666

**Step 4.** Calculate the current year MAV for the unaffected portion.
Multiply the base MAV of the unchanged account (from Step 1) by the RMV ratio (Step 3).
This is the current year MAV for the unaffected portion.
$104,030 x 0.666 = $69,283 (current year MAV for the unaffected portion).

**Step 5.** Calculate the MAV for the affected portion.
Multiply the current RMV of the affected portion by the CPR. This is the MAV for the affected portion.
$700,000 (New RMV) - $100,000 (Unaffected RMV) = $600,000 x 0.800 = $480,000 (current year MAV for the affected portion).

**Step 6.** Calculate new MAV for the entire account.
Add MAV for the unaffected portion (Step 4) and MAV for the affected portion (Step 5) to get total MAV for the account.
$69,283 + $480,000 = $549,283 (New MAV for the entire account).

| Example #2-**Complex** ZONE change: Property rezoned: has affected and unaffected portions (excess land) | | | |
|---|---|---|---|
| A property is rezoned from residential to commercial 2 years ago. A portion of a one and a half acre lot is developed into a bicycle sales/service shop. The shop, including all parking/landscaping, occupies half (.50) of an acre. The rest of the land (one acre) Remains Undeveloped. | | | |
| Authority? YES! ORS 308.146(3)(c) Property is rezoned and used consistently with the rezoning. OAR 150-308-0200(f) | | | |
| | 2015-16 Roll Values | 2016-17 New Values | |
| RMV Land | $150,000 | $150,000 | .50 acre is Affected, 1.0 acre is Unaffected |
| RMV OSD | $0 | $20,000 | |
| RMV Imp | $0 | $530,000 | |
| Total RMV | $150,000 | $700,000 | |
| MAV | $101,000 | $549,283 | |
| AV | $101,000 | $549,283 | |
| | | | Calculate MAV as if no exception: |
| Step 1. Calculate Base MAV | | $104,030 | AV x 1.03 or MAV which one is greater? Greater becomes Base MAV |
| | | | Math: $97,088 x 1.03 = $100,000 compared to $97,088 |
| Step 2. Calculate Unaffected RMV | | $100,000 | 1.5 acres at $50k each 1/2 acre = 1 acre $100,000 |
| Step 3. Calculate RMV Ratio (round down) | | 0.666 | Prior year RMV of unaffected $100,000/Total Prior year RMV $150,000 = RMV Ratio |
| Step 4. Calculate MAV of Unaffected portion | | $69,283 | Base MAV ($104,030) x RMV Ratio (.666)=Unaffected MAV |
| Step 5. Calculate MAV of Affected portion-CPR | 0.800 | $480,000 | Math: $700,000 (New RMV) -$100,000 (Unaffected RMV) = $600,000 x .800 (CPR) = $480,000 |
| Step 6. New One MAV - Add both MAV's | | $549,283 | Unaffected MAV + Exception MAV = New MAV |

**The property is partially rezoned:**
**Step 1.** Establish the current year base MAV of the account (as if there were no changes to the account).
**Step 2.** Calculate the unaffected RMV (Unaffected portion minus the Prior Year's total RMV).
**Step 3.** Calculate the RMV Ratio to determine percent of account unaffected:

$$\frac{\text{Prior year RMV of unaffected portion}}{\text{Total prior year RMV}} = \text{Percent of account unaffected}$$

**Step 4.** Calculate the current year MAV for the unaffected portion:
[Current year MAV (Step 1)] x [Percent of account unaffected (Step 3)] = Current MAV for unaffected portion.

**Step 5.** Calculate the current year MAV for affected portion.
Current affected RMV x CPR = Current year MAV for affected portion.

**Step 6.** Calculate new one MAV for the entire account.
[MAV for unaffected portion (Step 4)] + [MAV for affected portion (Step 5)] = MAV for the account.

**ReZONE matrix**

| The ReZONE Matrix will follow the hierarchal order of OAR 150-308-0200 | (1) and corresponding questions: |
|---|---|
| 1. What are the definitions of "Primary" and "Accessory" uses? | DEFINITIONS: OAR 150-308-0200 |
| | (1)(a) Primary use |
| 2. Can Accessory uses qualify for rezoned? | (1)(b) Accessory use |
| 3. What is Type of use? Can it change? Does it always trigger exception? | (1)(c) Type of use (also see OAR 150-308-0310) |
| 4. What is Floor Area Ratio (FAR)? | (1)(d) Floor area Ratio |
| 5. What is Site Coverage Ratio? | (1)(e) Site coverage ratio |
| 6. What is "Rezoned" and why is it date specific? | (1)(f) Rezoned means on or after July 1, 1995, **the governmental body that regulates zoning** |
| 7. What does it mean to be used consistently with the rezoning? | (A) Made changes in the zone designation |
| | (B) Made changes in one or more permitted primary types of uses or |
| | (C) Made a change in: |
| | (i) The number of dwelling units, other than accessory dwelling units, allowed per acre... |
| | (ii) The allowed floor area ratio |
| | (iii) The allowed site coverage ratio |
| | (D) "Rezoned" does **NOT** include: |
| | (i) Changes in authorized uses of the property that were imposed before July 1, 1995 |
| | (ii) Satisfaction of conditions or restrictions on the authorized uses of the property before July 1, 1995 |
| | (iii) Changes in the authorized types of use of the property |
| | (iv) Changes in allowed accessory uses |
| 8. When a property qualifies for rezone and consistent use Exception.. Now what? | (2) For the purposes of calculating maximum assessed value when a property is rezoned and used consistently with the rezoning, the portion of the property that is "affected" includes: |
| 9. Determine if there are "affected" and "unaffected" portions | OAR 150-308-0180 Definition of "Affected" property |
| | OAR 150-308-0200 |
| | (2)(a) Improvements that are converted to the newly allowed use; and |
| | (2)(b) All land that supports a **newly allowed use**, including, but not limited to: |
| | (A) Land under newly constructed or converted improvements put to the newly allowed use; |
| | (B) Ingress and egress related to the newly allowed use; |
| | (C) Access to utilities; |
| | (D) Landscaping; |
| | (E) Yard areas; and |
| | (F) Parking |
| 10. What are the actual calculations for determining Exception MAV? | Examples of calculations are located at the end of OAR 150-308-0200 and end of section 7 |

# Section 8—Subdivided or partitioned property

Partitions and subdivisions **create new legal lots where none existed before.** This requires approval from the city or county planning authority.

In order to discuss what actually constitutes an MAV exception event in this section, one must first clarify what **doesn't** qualify.

**Splitting tax lots along originally platted lot lines = No exception event.**

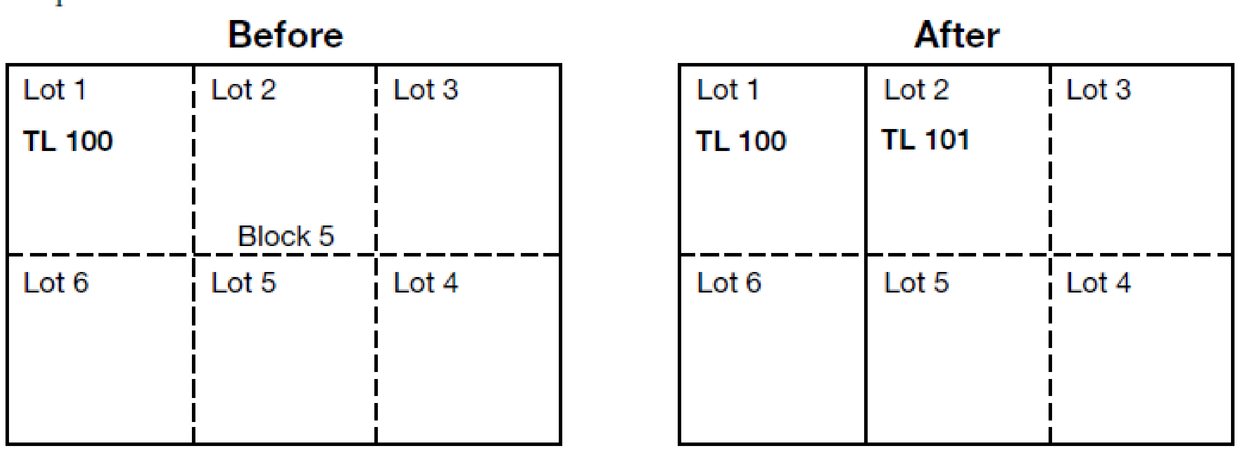
There is nothing to prevent the assessor from valuing each platted lot individually and then summing the values to come to the total value of the combined tax lots for billing purposes. This is a convenience to both the assessor and the taxpayer.

When a taxpayer is requesting that the bill be separated along pre-existing lot lines and, upon further research it's determined that the tax lot lines were indeed already platted, the action of separating the bill doesn't constitute a partition for MAV exception. This is actually an "account modification" and is addressed in Section 12. When a taxpayer is requesting a separation for billing purposes and those platted tax lots already existed, our authority comes from ORS Chapter 92.

Surprisingly, there is no definition for partition in Chapter 308—only in Chapter 92. The tax court places little weight on the definitions in Chapter 92 because those definitions are specifically applied only to ORS 92.010 to 92.190. However, with ***existing*** plat lines, the court has determined that the partition or subdivision occurs when the original parcel is platted into lots, regardless of whether or not those lots were later aggregated into a single tax lot.

Here's an example of a "Before and after" plat map to assist visually. The Before-platted shows dashed lines indicating divisions that are pre-existing so dividing the property along these won't qualify as a partition:

The creation of tax lot 101 was accomplished by deed with no legal requirement to involve the planning department. The plat lines that were previously created were used to set the lot lines. Therefore, MAV before the tax lot was split will be allocated between the tax lots and not be recalculated as a Measure 50 exception.




See section 12 for the actual segregation process and the mathematical steps required.

## Partition and subdivision approval

One of the main considerations in determining when a tax lot split is actually a bona fide partition/subdivision is in the requirement of the taxpayer to go through the planning process to create new legal lots.

Since an actual partition or subdivision requires approval from the city or county planning authority, review available documentation that a plan has been approved. In addition, speak with the taxpayer wishing to make the changes and take the time to view the original plat map and the changes being proposed. Once you have determined whether the request is indeed a partition, subdivision, or just a billing change, the correct course of action can be taken. Keep the documentation available with the accounts as the changes may generate questions in future years.

In addition, statute indicates that the assessor shouldn't indicate any changes, divisions or transfers of properties which occurred before, on or after January 1 as a result of the division of a larger parcel of land until all ad valorem taxes, fees and other charges placed upon the tax roll on the entire parcel of property that have been certified for collection under ORS 311.105 and 311.110 have been paid.

### Partition and subdivision defined

Partitioning land means dividing land into not more than three parcels including the original parent account. A visual way to remember that a partition can divide land up to three parcels is to divide the word "partition" into "parts" as shown below. These are usually requested by a single person requesting the change so the "i" represents the individual. Notice there are only 3 parts remaining:

1 | 2 | 3

Partition = Part | it | i | on "i" = individual requesting change

Subdividing land means to divide land into four or more parcels including the original parent account. The easy way to remember four or more is to think about what is occurring to the land- usually subcontractors are involved and this means more "division" of work being performed.

1 | 2,3,4.........

Subdivision = Sub | division "Sub" = usually involves subcontractors

### Process 1—Segregation

If property is partitioned or subdivided during the current assessment year, ORS 308.162 establishes the procedure to allocate the RMV and MAV balance first. We will refer to this process as the segregation. Segregation means 'the act of setting apart". In the segregation process, the objective is to allocate the value of the original account (parent) to each of the new lots. This must occur before the exception event that will be processed in the following year. The segregation process will not generate exception value. The sole purpose is to permit the assessor to reflect the changes in ownership as described in ORS 308.210(2).

Segregation apportions the prior year MAV and RMV that exists on the parent account among all the new accounts. In addition, the 103 percent MAV test is **not** performed for process 1 as the values utilized for this process are prior year values.

Once the segregation is completed, the RMV and the MAV reflect the total balance (value) of the parent account as of the assessment year as if the split had not occurred. Said in another way—the starting RMV and MAV should match the ending RMV and MAV when totaled.

**Summary steps:**
The property is segregated in year one:
Step 1—Determine allocation of RMV from parent to the child account(s).
Step 2—Determine RMV ratio.
Step 3—Balance MAV proportionate to RMV.
Step 4—Verify the math works. Starting RMV and MAV should match the ending RMV and MAV when totaled.

## Process 2—MAV exception

The actual MAV exception process occurs for the assessment date following the date that planning approved the partition or subdivision. This may or may not be the tax year following the segregation. The partitioning or subdividing event occurs and becomes MAV exception following established procedures per ORS 308.156:

**(MAV of the unaffected portion) + (RMV of the affected portion x CPR) = New MAV**

ORS 308.156(1) and 308.156(5) Subdivision or partition; rezoning; omitted property; disqualification from exemption, partial exemption or special assessment; rules.

(1) If property is subdivided or partitioned after January 1 of the preceding assessment year and on or before January 1 of the current assessment year, then the property's maximum assessed value shall be established as provided under this section.

(5) The property's maximum assessed value shall be the sum of:

(a) The maximum assessed value determined under ORS 308.146 that is allocable (assigned or charged) to that portion of the property not affected by an event described in subsection (1), (2), (3), or (4)(a) of this section; and

(b) The product of the real market value of that portion of the property that is affected by an event described in subsection (1), (2), (3), or (4)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year in the same area and property class.

**Formula: (Avg MAV / Avg RMV) = CPR**

Though the exception process appears reasonably straight forward, it's important to determine if there are "unaffected" and "affected" portions of property in order to calculate proper allocated portions for each lot.

## Affected and unaffected property

"Affected" property includes the ***entire land*** subdivided or partitioned. Buildings and structures (improvements to the land) require a closer look on whether they are considered unaffected or affected and we look to rule for guidance for the qualifying conditions:

**150-308-0190 Subdivided and partitioned property MAV**

For purposes of calculating maximum assessed value when a property is subdivided or partitioned, the portion of the property that is "affected" includes:

(1) The entire land that was subdivided or partitioned into smaller lots or parcels, if any.

(2) The improvements if one or more of the following apply:

(a) The act of subdividing or partitioning the land results in the apportionment of a single improvement (building or structure) to more than one tax lot.

**Example 1:** A lot improved with a duplex is partitioned such that the duplex is split into two single-family residences.

(b) The act of subdividing or partitioning the land changes the market's perception of the value of the improvements.

**Example 2:** A partition includes a vacant warehouse that was previously part of a large industrial complex. Prior to the partition, the market perceived the warehouse as unnecessary to the industrial complex and of little or no value. After the partition, the warehouse is a stand-alone improvement no longer associated with the industrial complex. The market now perceives the warehouse as a property that can be used for many different purposes with considerable value. By contrast, there is no change in market perception regarding the remaining improvements in the industrial complex.

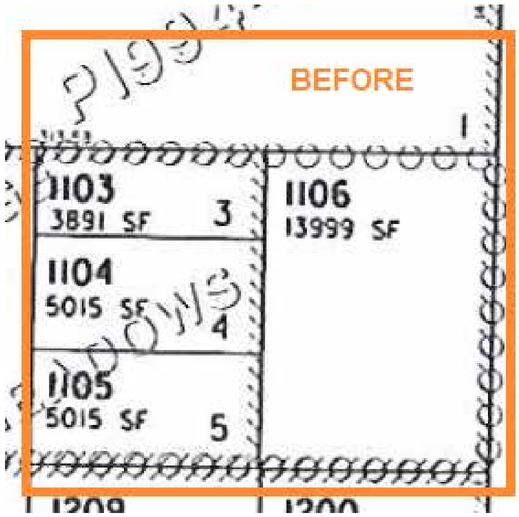
(c) The improvements are divided into separate units of property.

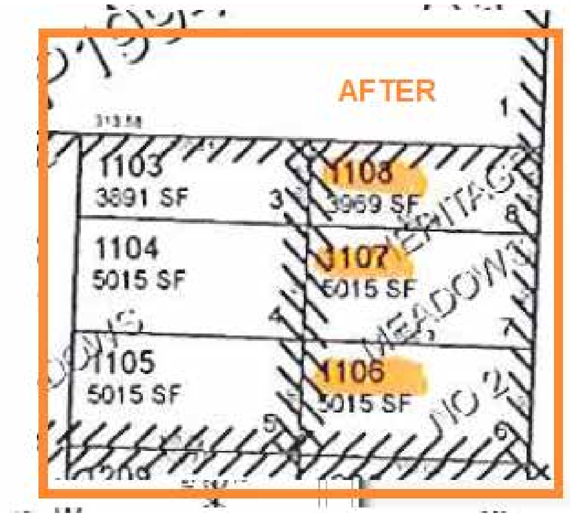
**Example 3:** The legal subdivision of an apartment building into condominium units.

Let's do some examples of properties that are partitioned including the steps necessary to perform both processes—the segregation and the MAV exception.

**Example 4: Process 1—Segregation**

In February, a property is partitioned into three bare land lots with the documentation from the county planning authority. The segregation is performed in year one. The tax lot 1106 is partitioned as follows:




The prior year roll values of the parent account 1106 are used to allocate the value of RMV and MAV between all three tax lots. Note that the RMV/MAV when combined for all account must match the parent account without any changes:

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Example #4-Year 1-Process 1-Segregation - No improvements-Partition requested after January 1. The partition is for a total of 3 lots.** | | | | | | | | |
| Step 1-Determine allocation of RMV from parent to all accounts | | | | | | | | |
| Before | | | Performed Segregation - RMV/MAV Prior year values must still match | | | | | |
| 2016-17 Prior year Roll Values: | TL 1106 | | | TL 1106 | | TL 1107 | | TL 1108 |
| Land Size (sf) | 13,999 | | | 5015 | | 5015 | | 3969 |
| **Parent** | | | **Parent/A** | | **Child** | | **Child** | |
| RMV Land | $117,558 | | RMV Land | $42,114 | RMV Land | $42,114 | RMV Land | $33,330 |
| OSD | $0 | | OSD | $0 | OSD | $0 | OSD | $0 |
| RMV Imp | $0 | | RMV Imp | $0 | RMV Imp | $0 | RMV Imp | $0 |
| Total RMV | $117,558 | | Total RMV | $42,114 | Total RMV | $42,114 | Total RMV | $33,330 |
| MAV = | $100,276 | | MAV = | $98,067 | MAV = | $16,498 | MAV = | $14,243 |
| AV = | $100,276 | | AV = | $98,067 | AV = | $16,490 | AV = | $14,243 |
| | | | After RMV | $42,114 | | $42,114 | | $33,330 |
| Step 2 - Determine RMV Ratio: | | | Start RMV | $117,558 | | $117,558 | | $117,558 |
| Formula: TaxLot RMV/total RMV | | | RMV Ratio | 0.36 | | 0.36 | | 0.28 |
| Step 3 - Balance MAV proportionate to RMV: | | | Start MAV | $100,276 | | $100,276 | | $100,276 |
| Formula: Total MAV x RMV Ratio | | | After MAV | $35,923 | | $35,923 | | $28,430 |
| | | | | | | | RMV | MAV |
| Step 4-Verify the math works! RMV/MAV totals for all accounts must match parent account without changes | | | | | | | $117,558 | $100,276 |

**Example 4: Year 2—Process 2—MAV exception**

Now the 2nd process—the MAV exception can be calculated. For year 2, the entire property is affected for all three tax lots. The two completed homes are affected as new improvements to property. This becomes a one-step process:

Determine RMV of entire parcel and multiply by the CPR for that property type to determine the new MAV and AV.

| Example # 4-Year 2-Process 2-MAV Exception -Entire property of each account is "Affected" including 2 completed homes | | | | | |
|---|---|---|---|---|---|
| | TL 1106 | | TL 1107 | | TL 1108 |
| Land size (sf) | 5015 | | 5015 | | 3969 |
| **Parent/A** | | **Child** | | **Child** | |
| RMV Land | $109,916 | RMV Land | $109,916 | RMV Land | $99,000 |
| OSD | $15,000 | OSD | $15,000 | OSD | $0 |
| RMV Imp | $184,070 | RMV Imp | $181,844 | RMV Imp | $0 |
| Total RMV | $308,986 | Total RMV | $306,760 | Total RMV | $99,000 |
| CPR | 0.752 | | 0.752 | | 0.752 |
| MAV = | $232,357 | MAV = | $230,684 | MAV = | $74,448 |
| AV = | $232,357 | AV = | $230,684 | AV = | $74,448 |
| Step 1. Calculate MAV of affected portion utilizing the CPR | | | | | |
| Math: New RMV x CPR = Exception MAV | | | | | |

**Example 5: Year 1—Process 1—Segregation**

In March, a property is partitioned into three lots with the documentation from the county planning authority. The segregation is performed in year one.

As in the previous example, the prior year roll values of the parent account 100 are used to allocate the value of RMV and MAV between all three tax lots (note that the RMV/MAV when combined for all accounts must match the parent account without any changes):

| **Example#5: Year 1-Process 1-SEGREGATION - Partition requested in March to total 3 tax lots. The SFD will remain on TL 100, TL 101 has a GB w/no OSD's valued at $11,550, TL 102 is bare land** | | | | | | | |
|---|---|---|---|---|---|---|---|
| Step 1-Determine allocation of RMV from | | Perform Segregation - RMV & MAV Prior year values must still Equal | | | | | |
| Before | | After | | | | | |
| 2016-17 Prior year Roll Values: | TL 100 | 2016-17 | TL 100 | 2016-17 | TL 101 | 2016-17 | TL 102 |
| Land Size | 0.38 | Land Size | 0.115 | Land Size | 0.115 | Land Size | 0.15 |
| **Parent** | | **Parent** | | **Child A** | | **Child B** | |
| RMV Land | $74,840 | RMV Land | $22,650 | RMV Land | $22,650 | RMV Land | $29,540 |
| RMV OSD | $18,000 | RMV OSD | $18,000 | RMV OSD | $0 | RMV OSD | $0 |
| RMV Imp | $174,290 | RMV Imp | $162,740 | RMV Imp | $11,550 | RMV Imp | $0 |
| Total RMV | $267,130 | Total RMV | $203,390 | Total RMV | $34,200 | Total RMV | $29,540 |
| MAV = | $128,800 | MAV = | $98,017 | MAV = | $16,486 | MAV = | $14,297 |
| AV = | | AV = | $98,017 | AV = | $16,486 | AV = | $14,297 |
| | | | | | | | |
| | | Tax Lot RMV | $203,390 | | $34,200 | | $29,540 |
| Step 2 - Determine RMV Ratio: | | Total RMV | $267,130 | | $267,130 | | $267,130 |
| Formula: Tax Lot RMV/Total RMV = RMV Ratio | | RMV Ratio | 0.761 | | 0.128 | | 0.111 |
| Step 3 - Balance MAV proportionate to RMV: | | Total MAV | $128,800 | | $128,800 | | $128,800 |
| Formula: Total MAV x RMV Ratio = Tax Lot MAV | | Tax Lot MAV | $98,017.00 | | $16,486.00 | | $14,297.00 |
| | | | | | Total RMV | | Total MAV |
| Step #4 - Verify the math works! Starting RMV & MAV should match the Ending RMV & MAV | | | | | $267,130 | | $128,800 |

**Example 5: Year 2—Process 2—MAV exception—Portion unaffected and affected**

When a portion of the property remains unaffected, (as is the case of TL 100 and TL 101) there will be additional steps to determine the "unaffected" and "affected" portions". The RMV that is unaffected needs to remain and the affected RMV calculated. In order for the affected portion to receive the Measure 50 benefit, the CPR will be applied to the affected RMV portion. There will also be "unaffected" MAV and "affected" MAV. Since there can only be one MAV per account, both portions of MAV will be summed in order to create the new MAV:

1. Calculate the base MAV. Perform 103 percent test.
2. Calculate the RMV that remains unaffected.
3. Calculate the RMV Ratio (the percentage of the unaffected portion by apportioning the prior year's RMV between the affected and unaffected portions).
   (Prior year RMV of unaffected portion / Total prior year RMV = Percent of account affected).
4. Calculate the MAV for the unaffected portion:
   [Base MAV (Step 1)] x [RMV ratio (Step 3)] = Unaffected MAV.
5. Calculate MAV of affected portion.
   Current affected RMV x CPR = Current year MAV for affected portion.
6. Calculate new one MAV for the entire account.
   [MAV for unaffected portion (Step 4)] + [MAV for affected portion (Step 5)] = MAV for the account.

Attached are the three individual account screens with and the calculations for each one (Unaffected portion hi-lighted in pink):

| Example #5: Year 2-Process 2- MAV Exception-Partition requested in March to make 3 tax lots<br>The Imp (SFD) will remain on TL 100 and is Unaffected Property. | | | |
|---|---|---|---|
| TL 100 | 2016-17 Roll Values | 2017-18 New Values | |
| RMV Land | $22,650 | $75,000 | |
| RMV OSD | $18,000 | $18,000 | |
| RMV Improvements | $162,740 | $170,877 | Market trended 5% |
| Total RMV | $203,390 | $263,877 | |
| MAV | $98,067 | $150,753 | |
| AV | $98,067 | $150,753 | |
| | | | Calculate MAV as if no exception: |
| | | | AV x 1.03 or MAV which one is greater? Greater becomes Base MAV |
| Step 1. Calculate Base MAV | | $101,009 | Math: $98,067 x 1.03 = $101,009 compared to $98,067 Greater? AV x 1.03! |
| Step 2. Calculate the RMV that remains Unaffected | | $162,740 | RMV Improvement (SFD) remains **Unaffected** |
| Step 3. Calculate RMV Ratio | | 0.8001 | Prior year RMV of unaffected $162,740/Total Prior year RMV $203,390 = RMV Ratio |
| Step 4. Calculate MAV of Unaffected portion | | $80,817 | [Base MAV(Step 1)]x[RMV Ratio(Step 3)]= Unaffected MAV (rounded down) |
| Step 5. Calculate MAV of affected portion utilizing CPR | 0.752 | $69,936 | Math: Current Affected RMV($75,000+18,000) x CPR (0 .752) = $69,936 = Exception MAV |
| Step 6. New One MAV - Add both MAV's | | $150,753 | [Unaffected MAV (Step 4)] + [Exception MAV (Step 5)] = New MAV |

| Example #5: Year 2-Process 2- MAV Exception-Partition requested in March to make 3 tax lots<br>The Imp (GB) will remain on TL 101 and is Unaffected Property. | | | |
|---|---|---|---|
| TL 101 | 2016-17 Roll Values | 2017-18 New Values | |
| RMV Land | $22,650 | $75,000 | |
| RMV OSD | $0 | $0 | |
| RMV Improvements | $11,550 | $12,128 | Market trended 5% |
| Total RMV | $34,200 | $87,128 | |
| MAV | $16,490 | $62,135 | |
| AV | $16,490 | $62,135 | |
| | | | Calculate MAV as if no exception (remember to round down) |
| | | | AV x 1.03 or MAV which one is greater? Greater becomes Base MAV |
| Step 1. Calculate Base MAV | | $16,984 | Math: $16,490 x 1.03 = $16,985 compared to $16,490 |
| Step 2. Calculate the RMV that remains Unaffected | | $11,550 | RMV Improvement (Gen'l purpose bldg $11,550) remains **Unaffected** |
| Step 3. Calculate RMV Ratio | | 0.3377 | Prior year RMV of unaffected $11,550/Total Prior year RMV $34,200 = RMV Ratio |
| Step 4. Calculate MAV of Unaffected portion | | $5,735 | [Base MAV(Step 1)]x[RMV Ratio(Step 3)]= Unaffected MAV portion |
| Step 5. Calculate MAV of affected portion utilizing CPR | 0.752 | $56,400 | Math: Current Affected RMV ($75,000) x CPR (0 .752) = $56,400 |
| Step 6. New One MAV - Add both MAV's | | $62,135 | [Unaffected MAV (Step 4)] + [Exception MAV (Step 5)] = New MAV |

| Example #5:Year 2-Process 2 MAV Exception - Partition requested in March to make 3 tax lots.<br>TL 102 is bare land with no OSD's-Entire account is affected | | | |
|---|---|---|---|
| TL 102 | 2016-17 Roll Values | 2017-18 New Values | |
| RMV Land | $29,540 | $75,000 | |
| RMV OSD | $0 | $0 | |
| RMV Improvements | $0 | $0 | |
| Total RMV | $29,540 | $75,000 | |
| MAV | $16,490 | $56,400 | |
| AV | $16,490 | $56,400 | |
| | | | |
| Step 1. Calculate MAV of affected portion utilizing the | 0.752 | $56,400 | Math: New RMV($75,000) x CPR (0 .752) = $56,400 |

# Section 9—Omitted property

Whenever an assessor has reason to believe that any real or personal property has been omitted from assessment and taxation, the assessor must initiate the procedural steps required to add the property to all of the tax rolls from which it was omitted for a period not exceeding five years prior to the last certified roll. The Oregon Constitution and statutes allow MAV to increase for omitted properties. The intent is to correct the tax roll for current and prior years as if the omitted property had been included.

If the property that was omitted from the tax rolls was first constructed or acquired within the current or five prior tax years, it's added to MAV as of January 1 following the calendar year of construction or acquisition by multiplying its RMV by the CPR for that year. If it was first constructed or acquired earlier than the sixth calendar year prior to the current certified roll, then the first year it can be taken into account is the fifth year prior to the current certified roll. It's added to MAV for the fifth year prior to the current certified roll by multiplying its RMV by the CPR for that year. Don't look beyond the fifth year prior to the current certified roll to calculate MAV.

The omitted property's trended RMV is added to each subsequent year's roll. MAV for each subsequent year is the greater of the prior year's corrected AV multiplied by 103 percent, or the prior year's corrected MAV.

**Example**

A property was built in 2003 and should have been added to the 2004–05 tax roll. The assessor discovers the property in December 2014 and adds it to the 2009–10 through 2014–15 tax rolls.

| Year | 2009–10 | 2010–11 | 2011–12 | 2012–13 | 2013–14 | 2014–15 |
|---|---|---|---|---|---|---|
| Original RMV | $140,711 | $133,675 | $126,992 | $133,341 | $140,008 | $147,009 |
| Corrected RMV | $166,211 | $157,900 | $150,005 | $157,506 | $165,381 | $173,650 |
| Original MAV | $106,359 | $109,550 | $112,836 | $116,221 | $119,708 | $123,299 |
| Corrected MAV | $128,034 | $131,875 | $135,831 | $139,906 | $144,103 | $148,426 |
| Original AV | $106,359 | $109,550 | $112,836 | $116,221 | $119,708 | $123,299 |
| Corrected AV | $128,034 | $131,875 | $135,831 | $139,906 | $144,103 | $148,426 |
| RMV trend | 5% | -5% | -5% | 5% | 5% | 5% |

| Omitted property | 2009–10 |
|---|---|
| RMV | $25,500 |
| CPR | 0.85 |
| Exception | $21,675 |

**Note:** RMV of the new construction is determined to be $25,500 as of January 1, 2009. The RMV of the year of construction isn't relevant, as it's prior to five years before the last certified roll.

RMV of $25,500 is multiplied by the 2009–10 CPR to determine an adjustment to the 2009–10 MAV of $21,675. Each subsequent year the 103 percent test is performed using the prior year's corrected MAV and AV. The AV fore each year is determined by comparing the corrected RMV to the corrected MAV.

# Section 10—Exemption, partial exemption, special assessment disqualification

When property is exempt from taxation, it doesn't have a MAV. If it's subject to a partial exemption or special assessment, MAV is reduced to reflect the partial exemption or special assessment.

When an entire property is disqualified from exemption, a new MAV is calculated by multiplying the RMV of the property for the year of disqualification by the CPR. If only a portion of the property is disqualified from exemption, then the MAV of the affected portion is calculated by multiplying the RMV of the affected portion by the CPR.

## Exemption versus partial exemption

At this point we need to clarify some terminology:

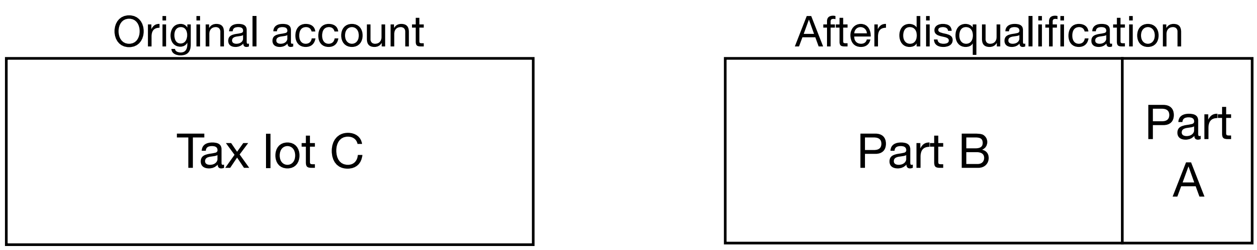
**Exemption:** Property or a portion of property is 100% exempt.

**Partial exemption:** Property or a portion of property is subject to an exemption that is less than 100% exempt.

**Partially exempt:** The reference used for property that has a partial exemption.

So for example, if the second floor of an office building is exempt due to the charitable use by the tenant, then the second floor is 100% exempt. Alternatively, property that qualifies for a vertical housing exemption gets a 20% partial exemption for each floor of qualified residential housing, limited to 4 floors or 80%. No part of the property is 100% exempt. If a building has 5 floors of qualified residential housing, the entire project receives an 80% exemption.

## Disqualification from exemption




**Example 1: Part of exempt property disqualified**

The assessor discovers or is notified that a portion of a property that is totally exempt no longer qualifies for exempt status.

Originally tax lot C was 100 percent exempt. No MAV is required to be kept on this account.

When part B is disqualified, part A is still exempt.

RMV for portion B = $200,000

RMV for portion A = $ 40,000

RMV for tax lot C = $240,000

CPR = 0.65

New MAV = RMV of portion B x CPR.

New MAV = $200,000 x 0.65 = $130,000.

**Example 2: Property disqualified from exemption where a portion of the property was exempt**

The year following the disqualification of part B in example 1 above, part A is disqualified.

RMV for portion B = $210,000
RMV for portion A = $ 45,000
RMV for tax lot C = $255,000
CPR = 0.70

MAV of the affected portion = RMV of the affected portion x CPR.

$45,000 x 0.70 = $31,500.

MAV of the unaffected portion = the greater of 103 percent of the prior year's AV or 100 percent of the prior year's MAV of the unaffected portion (apply the 103 percent test).

$130,000 x 1.03 (103%) = $133,900.

New MAV = MAV of the affected portion + MAV of the unaffected portion.

$31,500 + $133,900 = $165,400.

## MAV upon qualification for exemption of a portion of property, partial exemption, or special assessment

When a portion of property is granted an exemption, MAV must be allocated between the affected and unaffected portions. In the year a portion of the property becomes exempt, first do the 103% test to determine the current year MAV of the entire property. Then reduce that number by the MAV allocated to the exempted portion.

If a property becomes partially exempt, and the entire property is subject to the percentage exemption, then the new MAV for the property is the RMV after taking into account the percentage of exemption multiplied by the CPR. If there is a disqualification that reduces the percentage of the exemption, the MAV is recalculated as the RMV after taking into account the reduced percentage of exemption multiplied by the CPR for that year.

Most statutes governing special assessments also govern the calculation of MAV for property subject to those special assessments. However, if the statutes don't specifically prescribe a method, the first year of the special assessment is calculated by multiplying the specially assessed value by the CPR.

## Calculation of additional tax

When property is disqualified from certain special assessments, additional taxes are calculated based upon the difference between the taxes that would have been paid if the property hadn't been specially assessed for prior years, and the taxes that were paid. The number of prior years to be used in the calculation is established by ORS 308A.703(3) and is known as the "lookback period."

OAR 150-308-1500 governs the calculation of the additional tax. It provides that effective August 15, 2018, to calculate the MAV for the computation of the additional tax, multiply the RMV of the special assessed land being disqualified for the earliest year in the lookback period by that year's appropriate CPR for the classification of the disqualified property as if it wouldn't have been specially assessed. For each subsequent year, calculate the MAV as if the property hadn't been specially assessed per ORS 308.146.

# Section 11—Lot line adjustments

All of the land included in a lot line adjustment is affected property for purposes of calculating MAV. Buildings and structures are unaffected property, unless the lot line divides a building.

The MAV of property after a lot line adjustment is the RMV of the affected property multiplied by the CPR, plus the MAV of any unaffected property. However, the statute provides an additional restriction regarding lot line adjustments. The total MAV of all of the affected property after the lot line adjustment can't exceed the total MAV of the affected property before the lot line adjustment.

This doesn't mean that the MAV of affected property is simply allocated to the new accounts after the lot line adjustment. Lot line adjustments are exceptions and must be calculated using the current year's CPR. However, after the MAV of the affected property has been calculated, the MAV of the accounts must be proportionately reduced to not exceed the MAV the property would have had if there hadn't been a lot line adjustment.

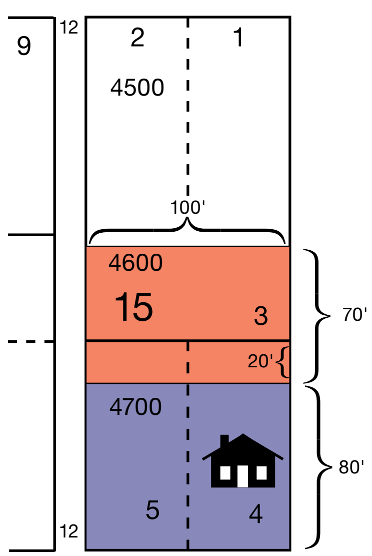
**Example:**

The following example consists of one unimproved lot and one improved lot. This example, together with the examples found in OAR 150-308-0230, demonstrate the math involved. This example uses the information below to calculate MAV for each lot. There is also a diagram of the lot layout below. Remember that the affected portion for land is all the land subject to the lot line adjustment.

| **TL4600** | **TL4700** |
|---|---|
| *Vacant lot* | *Improved with residence* |
| RS-7000 zoning (7K minimum building site) | RS-7000 zoning (7K minimum building site) |
| 5,000 sf (not buildable) | 10,000 sf (buildable) |
| Land value $25,000; $5/sf | Land value $100,000; $10/sf |
| Improvement value $0 | Improvement value $360,000 |
| **MAV = $11,250** | **MAV = $276,000** |
| *After lot line adjustment —* | |
| 7,000 sf (buildable) | 8,000 sf (buildable) |
| Value $70,000; $10.00/sf* | Value $80,000 $10.00/sf |

** Buildable sites in this market are worth $10.00/sf CPR = 0.65*

## Lot line adjustments




Zoning in the area is RS-7000
(7,000 sf minimum)
CPR (class 1XX) = 0.650

After the adjustment:

| TL4600 | TL4700 |
|---|---|
| Vacant | Improved with house |
| 70 x 100 = 7,000 sf | 80 x 100 = 8,000 sf |
| Value = $70,000** | Value = $80,000 land** |
| | = $360,000 imp* |

Based on—
* Prior year RMV
** Prior year $/sf RMV

**How to calculate MAV of the affected portions before a lot line adjustment:**

1. Calculate a ratio of affected portion RMV to the total RMV.

   TL 4600: $25,000 (affected portion RMV) ÷ $25,000 (total RMV) = 1.00

   TL 4700: $100,000 (affected portion RMV) ÷ $460,000 (total RMV) = 0.217391

2. Multiply the result of step 1 times the MAV to calculate the amount of MAV that is attributable to each affected portion prior to lot line adjustment.

   TL 4600: 1.00 (Step 1) x $11,250 (MAV) = $11,250 (MAV attributable to affected portion)

   TL 4700: 0.217391 (Step 1) x $276,000 (MAV) = $60,000 (MAV attributable to affected portion)

3. Add MAV attributable to each affected portion calculated in Step 2.

   $11,250 (Step 2)
   \+ $60,000 (Step 2)
   $71,250 = Total MAV of both affected portions (prior to lot line adjustment)

**How to calculate the total MAV for the affected portion after a lot line adjustment:**

After lot line adjustment, TL 4600 is 7000 SF and TL 4700 is 8000 SF. Both are now buildable. Since buildable lots sell for $10 per SF, the lots are now worth $70,000 and $80,000, respectively. The CPR is 0.65

4. Multiply the RMV of the affected portion (after lot line adjustment) times the CPR as follows:

   TL 4600: $70,000 (RMV) x 0.65 = $45,500 (MAV) (after lot line adjustment)

   TL 4700: $80,000 (RMV) x 0.65 = $52,000 (MAV) (after lot line adjustment)

5. Add MAV attributable to each affected portion calculated in Step 4 as follows:

   $45,500 (Step 4)
   \+ $52,000 (Step 4)
   $97,500 = Total MAV of both affected portions (after lot line adjustment)

6. The total MAV after lot line adjustment (for all accounts) must not exceed the total MAV prior to the lot line adjustment (for all accounts). To achieve this, the total MAV after lot line adjustment must be proportionally adjusted for each account.

   To make a proportional adjustment, a ratio is calculated by dividing the total MAV of the affected portions before lot line adjustment by the total MAV of the affected portions after the lot line adjustment as follows:

   $$\frac{\text{TL 4600–\$71,250 (total MAV affected portions before) (Step 3)}}{\text{TL 4700–\$97,500 (total MAV affected portions after) (Step 5)}} = 0.730769$$

7. Reduce MAV proportionally based on the proportional adjustment ratio calculated in Step 6, so that total MAV prior to the lot line adjustment equals total MAV after lot line adjustment.

   TL 4600: 0.730769 x $45,500 (MAV of affected portion after) (Step 4) = $33,250 (Reduced MAV after)

   TL 4700: 0.730769 x $52,000 (MAV of affected portion after) (Step 4) = $38,000 (Reduced MAV after)

8. Calculate MAV attributable to the unaffected portions after lot line adjustment. Subtract the amount of MAV attributable to the affected portions from the total MAV for the account. The balance will be MAV attributable to the unaffected portion of the account as follows:

   TL 4600:
   $11,250 (total MAV) (Step 2)
   –$11,250 (MAV of affected portion) (Step 2)
   $0 (MAV attributable to the unaffected portion)

   TL 4700:
   $276,000 (total MAV) (Step 2)
   –$60,000 (MAV of affected portion) (Step 2)
   $216,000 (MAV attributable to the unaffected portion)

9. Add MAV for affected portion (after reduction) to any unaffected MAV to determine the total MAV for each account as follows:

   TL 4600: $33,250 + $0 = $33,250
   (total MAV for the account after)

   TL 4700: $38,000 + $216,000 = $254,000
   (total MAV for the account after)

   Total MAV (both accounts) after lot line adjustment = $287,250.

   Total MAV (both accounts) prior to lot line adjustment = $287,250.

# Section 12—Destroyed, damaged, demolished, or removed property

When property is destroyed or damaged there are three separate issues to address:

- Adjustment of MAV.
- Timing of the adjustments.
- Proration of taxes for the current tax year.

The criteria used to address each of these issues is separate, even though the decisions may be made simultaneously.

## Adjustment of MAV

When a property is destroyed or damaged, the assessor is required to recognize the loss in RMV as of the assessment date immediately after the loss is known. It doesn't matter whether the property was destroyed or damaged during the previous assessment year or during an earlier year. The determination of whether MAV can be adjusted to reflect the loss depends on the cause of the destruction or damage. If the destruction or damage is from a fire or act of God, MAV must be adjusted to reflect the loss in the same year that RMV is adjusted. The property owner doesn't have to file an application in order for the assessor to calculate a new RMV, MAV, and AV for the next January 1 assessment date.

### Fire

MAV can be adjusted if the destruction or damage was caused by accidental fire or controlled burns. This differs from acts of God because fire can be caused by human action.

The only restriction placed on adjusting MAV due to fire is when the owner of the property is convicted of arson, in such a case no adjustments can be made to MAV. All other arson related fires continue to qualify. In addition, the owner must be convicted, not merely suspected or charged, with arson to deny relief. Since it may take more than a year for an arson case to be resolved, you may have to grant the reduction in MAV, only to correct the roll again after the conviction.

### Act of God

There are two criteria that must be considered when determining if an event was caused by an act of God.

First, the damage must result from an extraordinary force of nature. No human action or intervention can be a contributing factor to the damage.

Second, the occurrence or resulting consequence must not have been reasonably foreseeable or preventable. The gradual removal of foundation support from dwellings on coastal bluffs isn't an act of God, because the natural actions and consequences of weather and waves are both known and reasonably foreseeable.

## Which properties are destroyed or damaged?

A landslide occurs in a subdivision. There was no human involvement in the event. Some properties were physically damaged or destroyed by the landslide. Other properties weren't physically affected by the slide, but may have a suffered a decrease in real market value due to the stigma in the subdivision created by the damage sustained by other properties.

Question: Which properties are considered destroyed or damaged and eligible for a MAV adjustment?

Answer: Only those properties physically degraded by the slide qualify for relief. To qualify as "destroyed or damaged," real or personal property must be physically degraded. This doesn't include value decreases of property in proximity to destroyed or damaged property.

**Example—MAV reduction for fire or act of God**

House destroyed by fire on November 15, 2014 and not replaced. No other changes to property.

Given:

| | 2014–15 RMV | 2014–15 MAV |
|---|---|---|
| House | $140,000 | |
| Barn | 25,000 | |
| G.P. Bldg. | 5,500 | |
| Land | 160,000 | |
| Total | $330,500 | $242,917 |

**Calculate 2015–16 MAV**

*Current year MAV as if property hadn't changed (103 percent test):*

| | |
|---|---|
| Prior year AV times 1.03 | $250,204 |
| Prior year MAV | $242,917 |
| Current year MAV of unchanged account | $250,204 |

*RMV of the unaffected portion from prior year:*

| | |
|---|---|
| Prior year total RMV | $330,500 |
| Less prior year RMV of the affected portion | – $140,000 |
| Equals prior year RMV of the unaffected portion | $190,500 |

*Percentage of unaffected portion:*

| | |
|---|---|
| RMV of the unaffected portion from the prior year | $190,500 |
| Divided by total prior year RMV | ÷ $330,500 |
| Equals the percentage of unaffected property | 57.64% |

*MAV adjusted to reflect the loss from fire or act of God:*

| | |
|---|---|
| Unadjusted current year MAV | $250,204 |
| Percentage of unaffected property | x 0.5764 |
| MAV adjusted to reflect the loss from fire or act of God | $144,217 |

## Demolishing or removing a building

MAV may also be reduced when a building is demolished or removed. It doesn't matter whether the building was demolished or removed during the previous assessment year or during an earlier year. However, unlike property destroyed or damaged by a fire or act of God, two critical requirements must be met before MAV may be adjusted.

First, the statute specifically applies to the demolition or removal of **a building**. This means the entire building must be demolished or removed, not just a part of a building.

What constitutes a "building" isn't defined in statute. However, the dictionary definition of "building" is:

*"…a constructed edifice designed to stand more or less permanently, covering a space of land, usually covered by a roof and more or less completely enclosed by walls, and serving as a dwelling, storehouse, factory, shelter for animals, or other useful structure—distinguished from structures not designed for occupancy (as fences or monuments) and from structures not intended for use in one place (as boats or trailers) even though subject to occupancy."*

The second requirement that differentiates demolishing or removing a building from destruction or damage by fire or act of God is that, in order to reduce MAV, the owner of the property **must file an application.** Without an application, the assessor has no authority to adjust MAV, even if the assessor is aware of the demolition or removal. The application must be filed by December 31 of the assessment year for which the MAV reduction is requested.

## July 1 determination of value

ORS 308.146(6) allows the owner or person assessed for property that is destroyed or damaged after the January 1 assessment date, but prior to or on the July 1 beginning of the tax year, to request that their property be valued as it exists on July 1 rather than the normal assessment date for the tax year. Thus, the taxpayer doesn't have to pay taxes on property that no longer exists or is substantially diminished when the tax year begins.

To receive relief the taxpayer must file an application with the assessor. The application must be filed by August 1 of the current assessment year, or the 60th day after the destruction or damage occurred, whichever is later, or by December 31 with a late fee which is the greater of $200 or one-tenth of one percent of the real market value of the property. As with the adjustment to MAV for demolishing or removing a building, the assessor has no authority to provide relief unless an application is filed, even if the assessor is aware of the destruction or damage.

Note that a building that is demolished is also considered destroyed. Therefore, if a building is demolished between January 1 but prior to or on July 1, the owner may file two separate applications. One of the applications is for the determination of value as of July 1, and would be due by August 1, or the 60th day after the demolition, or by December 31 with a late filing fee. The other application would be for the adjustment of MAV for the demolition of a building, and would be due by December 31.

### Timing of MAV adjustments

If a property wasn't destroyed or damaged by fire or act of God, nor had a timely application for the adjustment of MAV for a building demolished or removed then MAV can't be adjusted regardless of whether the property is assessed as of January 1 or July 1. For destruction or damage by fire or act of God or a timely application for the removal of a building, MAV is adjusted for the year in which the event is reflected by a reduction in RMV.

Therefore, if there is no application for a determination of value as of July 1, any adjustment of MAV will be for the assessment year starting the following January 1. If there is an application for a determination of value as of July 1, the adjustment of MAV will be for the tax year beginning July 1.

The phrase "reduction in RMV" means that the total RMV after adjustment is less than it would otherwise have been, had the damage, destruction, demolishment, or removal not occurred. This includes situations where the total RMV of the property may have increased from the prior year due to the addition of other new improvements unrelated to damage, destruction, demolishment, or removal. This is because RMV would be higher if those hadn't occurred.

#### Example—When value change is reflected

**Situation 1:** Property damaged (fire or act of God) on March 5, 2014. RMV of damage = $50,000.

No application for July 1 determination of RMV.

**Note:** *RMV reduction reflected on the 2015–16 tax roll.*

| 2013–14 Values | 2014–15 Values | 2015–16 Values |
|---:|---:|---:|
| RMV 150,000 | RMV 150,000 | RMV 100,000 |
| MAV 135,923 | MAV 140,000 | MAV 96,138 |
| AV 135,923 | AV 140,000 | AV 96,138 |

**Reduction of MAV**

MAV had property not changed: Greater of (140,000 x 1.03) or 140,000 = 144,200.

RMV of affected portion = 50,000.

RMV of unaffected portion = 100,000 (150,000 – 50,000).

Percentage of unaffected portion = 0.6667 (100,000 ÷ 150,000).

MAV adjusted to reflect loss = 96,138 (0.6667 x 144,200).

**Situation 2:** Property damaged (fire or act of God) on March 5, 2014. RMV of damage = 50,000. With application for July 1 determination of RMV.

**Note:** RMV reduction reflected on the 2014–15 tax roll.

| 2013–14 values | 2014–15 values | 2015–16 values |
|---|---|---|
| RMV 150,000 | RMV 100,000 | RMV 100,000 |
| MAV 135,923 | MAV 93,338 | MAV 96,138 |
| AV 135,923 | AV 93,338 | AV 96,138 |

**Reduction of MAV**

MAV had property not changed: Greater of (135,923 x 1.03) or 135,923 = 140,000.

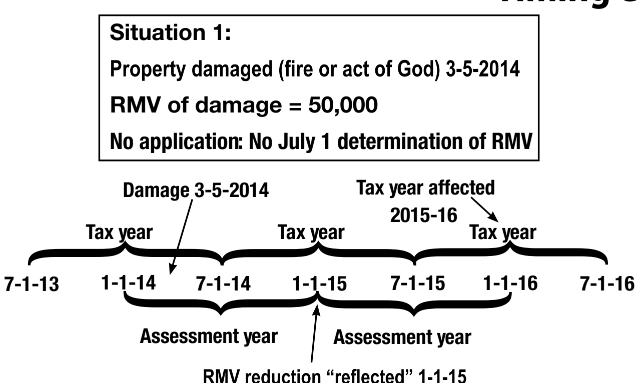
RMV of affected portion = 50,000.

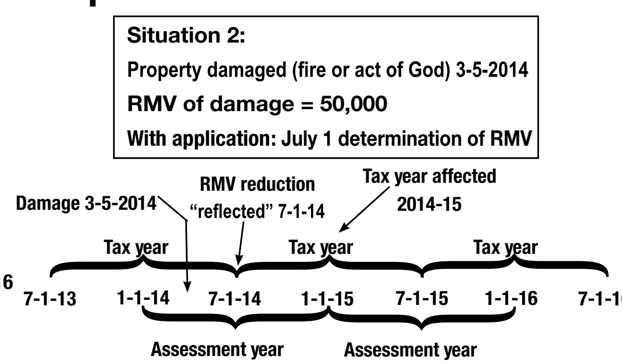
RMV of unaffected portion = 100,000 (150,000 – 50,000).

Percentage of unaffected portion = 0.6667 (100,000 ÷ 150,000).

MAV adjusted to reflect loss = 93,338 (0.6667 x 140,000).

## Timing example




## Proration of taxes for the current tax year

ORS 308.425 provides for the proration of taxes for the current tax year when property is destroyed or damaged by a fire or act of God. This provision relates specifically to relief from taxes, not any reduction in RMV, MAV, or AV on the tax roll for the current year.

The destruction or damage must be from a fire or act of God. To receive relief from the taxes for the tax year in which the damage occurs, a taxpayer must file an application with the tax collector no later than the end of the tax year (June 30) or sixty days following the destruction or damage, whichever is later.

If property is damaged, the tax collector reduces the taxes for each month that the property is damaged, proportionately to the reduction in assessed value caused by the damage. The reduction in assessed value is determined for proration purposes only. The assessed value on the roll isn't adjusted.

If the property is totally destroyed, the tax collector only extends taxes for those months or fraction of a month that the property existed. The taxes attributed to the destroyed property are canceled for the remainder of the tax year. Each month's taxes are calculated as one-twelfth of the taxes imposed on the property for the tax year.

# Section 13—Property tax account modifications

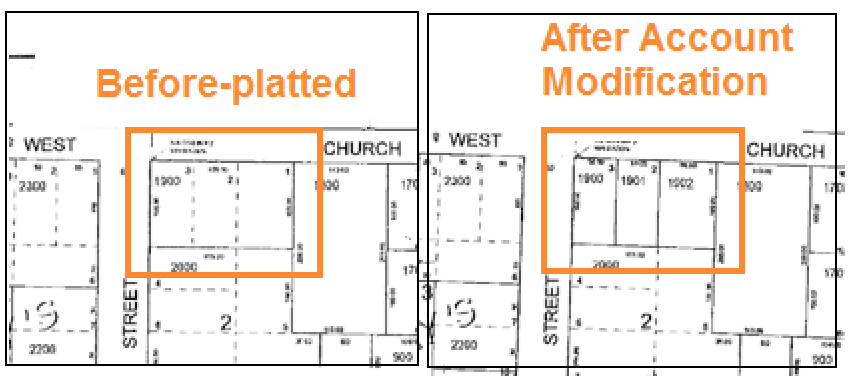
If two or more tax accounts are merged into a single account, the MAV may be adjusted to reflect the change. However, the MAV of all accounts affected may not exceed what the total MAV would have been if the change hadn't occurred. This isn't an exception, and MAV isn't recalculated by multiplying the RMV of the new account by the CPR. The MAV of each of the separate accounts is added together to calculate the MAV of the combined account.

If a single property tax account is divided into two or more accounts, the MAVs of all the property affected by the division may not exceed what the total MAV would have been if the change hadn't occurred. Therefore, the MAV of the parent property tax account is allocated to the new accounts proportionately based on the RMV of each new account.

This isn't to be confused with a partition or subdivision. Partitions and subdivisions create new legal lots where none existed before. The division of a property tax account under ORS 308.162 must not involve the creation of new legal tax lots, which would require approval from the city or county planning authority.

### Example 1—Account modification:

A taxpayer makes the request to "partition" their property. Upon investigation, it's discovered that they haven't been to planning to create new lots—they just want to separate the ownership on billing and are filing deeds showing new ownership. The plat map (Before-platted) reveals that indeed, the lots lines previously existed and were billed as one unit.



| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Example #1 Account Modification - Property partitioned along previously existing lot lines - That were established by prior Ch. 92 subdivision or partition process. SFD stayed on parent acct** | | | | | | | |
| Step 1-Determine allocation of RMV from parent to all accounts | | | | | | | |
| Before | | Performed Segregation - RMV/MAV Prior year values must still match | | | | | |
| 2016-17 Prior year Roll Values: | TL 100 | | TL 100 | | TL 101 | | TL 101 |
| Land Size | 0.38 | | 0.115 | | 0.115 | | 0.15 |
| **Parent** | | **Parent/A** | | **Child** | | **Child** | |
| RMV Land | $74,840 | RMV Land | $22,650 | RMV Land | $22,650 | RMV Land | $29,540 |
| OSD | $18,000 | OSD | $18,000 | OSD | $0 | OSD | $0 |
| RMV Imp | $174,290 | RMV Imp | $174,290 | RMV Imp | $0 | RMV Imp | $0 |
| Total RMV | $267,130 | Total RMV | $214,940 | Total RMV | $22,650 | Total RMV | $29,540 |
| MAV = | $128,800 | MAV = | $103,636 | MAV = | $10,921 | MAV = | $14,243 |
| AV = | $128,800 | AV = | $103,636 | AV = | $10,921 | AV = | $14,243 |
| | | After RMV | $214,940 | | $22,650 | | $29,540 |
| Step 2 - Determine RMV Ratio: | | Start RMV | $267,130 | | $267,130 | | $267,130 |
| Formula: Tax Lot RMV/Total RMV | | RMV Ratio | 0.8046 | | 0.0848 | | 0.1106 |
| Step 3 - Balance MAV proportionate to RMV: | | Start MAV | $128,800 | | $128,800 | | $128,800 |
| Formula: Total MAV x RMV Ratio | | After MAV | $103,636 | | $10,921 | | $14,243 |
| | | | | | | RMV | MAV |
| Step 4-Verify the math works! RMV/MAV totals for all accounts must match parent account without changes | | | | | | $267,130 | $128,800 |

## Example 2—Account modification

For the 2014–15 tax year, a manufactured structure exempt from title is assessed as real property in the same account as the underlying land. The values on the 2014–15 tax roll are as follows:

| | |
|---|---|
| Land RMV | $ 45,000 |
| MS RMV | $ 30,000 |
| Total RMV | $ 75,000 |
| MAV | $ 50,000 |
| AV | $ 50,000 |

The owner sells the manufactured structure in 2014, but retains ownership of the underlying land. The manufactured structure isn't moved.

In this situation, the billing of the manufactured structure must be moved to its own property tax account because the ownership is different and the tax statement needs to reflect the correct owner. However, there is no exception that would allow MAV of either property tax account to be recalculated using the current year's CPR.

Step 1. Determine allocation of RMV.

All land and OSD remains on TL 100 = RMV $45,000, MS account = RMV $30,000.

Step 2. Determine RMV Ratio:

Tax lot 100-Land RMV ÷ Total RMV = RMV ratio.

$45,000 ÷ $75,000 = 0.60.

Tax lot MS RMV ÷ Total RMV = RMV ratio.

$30,000 ÷ $75,000 = 0.40.

Step 3. Balance MAV proportionate to RMV.

2014–15 Total MAV = $50,000 x 0.60 = $30,000 MAV allocated to TL 100 (land).

2014–15 Total MAV = $50,000 x 0.40 = $20,000 MAV allocated to MS account.

Step 4. Verify the math. Starting RMV and MAV should match the Ending RMV and MAV when totaled.

| Example #2-Account Modification -The owner sells the manufactured structure in 2014, but retains ownership of the underlying land. The manufactured structure is not moved. | | | | | | | |
|---|---|---|---|---|---|---|---|
| Step 1-Determine allocation of RMV from Original to "M" account | | | | | | | |
| Before | | RMV/MAV Prior year values must still match | | | | | |
| 20174-18 Prior year Roll Values: | TL 100 | | TL 100 | | Acct M100 | | |
| Land Size | 0.38 | | 0.38 | | No Land | | |
| Parent | | Parent/Land | | Manufactured Structure | | | |
| RMV Land | $32,000 | RMV Land | $32,000 | RMV Land | $0 | | |
| OSD | $13,000 | OSD | $13,000 | OSD | $0 | | |
| RMV Imp | $30,000 | RMV Imp | $0 | RMV Imp | $30,000 | | |
| Total RMV | $75,000 | Total RMV | $45,000 | Total RMV | $30,000 | | |
| MAV = | $50,000 | MAV = | $30,000 | MAV = | $20,000 | | |
| AV = | $50,000 | AV = | $30,000 | AV = | $20,000 | | |
| | | After RMV | $45,000 | | $30,000 | | |
| Step 2 - Determine RMV Ratio | | Start RMV | $75,000 | | $75,000 | | |
| Formula: TaxLot RMV/total RMV | | RMV Ratio | 0.600 | | 0.400 | | |
| Step 3 - Balance MAV proportionate to RMV | | Start MAV | $50,000 | | $50,000 | | |
| Formula: Total MAV x RMV Ratio | | After MAV | $30,000 | | $20,000 | | |
| | | | | | | RMV | MAV |
| Step #4 - Verify the math works! Starting RMV & MAV should match the Ending RMV & MAV | | | | | | $75,000 | $50,000 |

## Eminent domain

When a portion of a property is transferred to a public right-of-way, MAV is adjusted in the same way. The only difference is that the portion that is transferred isn't given its own account with its own RMV, and the MAV of that portion is zero because it's exempt.

It's important to note that the owner of a property is given "just compensation" by the right of way agency. This amount isn't to be confused with the market value of their property. For instance, the owner may have been compensated for the "inconvenience", landscaping, or other various reasons that may not reflect a significant change in their market value. It still requires appraisal judgment to determine if there is a reduction in value.

**Example 3—ROW:**

A residence on a quarter acre lot has the following tax roll values for the 2014–15 tax year:

| | |
|---|---|
| RMV | |
| Land | $62,000 |
| OSD | $18,000 |
| Improvements | $210,000 |
| Total RMV | $290,000 |
| MAV and AV | $195,000 |

In February of 2014, the city takes a 30 foot wide swath in a Right of way taking (ROW) from one side of the lot for a street. It's determined that the removal of the swath does impact the market value of the property and RMV is reduced by $10,000 – all attributable to the land portion of the account.

Step 1. Determine allocation of RMV

All land, OSD, and IMPs remain on TL 100 = RMV $290,000, ROW = RMV $10,000

Step 2. Determine RMV ratio:

Tax lot 100—Land RMV ÷ Total RMV = RMV ratio.

$280,000 ÷ $290,000 = 0.966.

ROW RMV ÷ Total RMV = RMV Ratio.

$10,000 ÷ $290,000 = 0.034.

Step 3. Balance MAV proportionate to RMV.

2014–15 Total MAV = $195,000 x 0.966 = $188,276 MAV allocated to TL 100.

2014–15 Total MAV = $195,000 x 0.034 = $6,724 MAV allocated to ROW becomes zero.

Step 4. Verify the math. Starting RMV and MAV should match the ending RMV and MAV when totaled.

**Note:** MAV of the property taken by the city is zero, since it's exempt.

**Example #3-Emminent Domain/ROW-Account Modification -**
**In February of 2014, the city takes a 30 foot wide swath from one side of the lot for a street. RMV of the swath is $10,000.**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Step 1-Determine allocation of RMV from parent to all accounts | | | | | | | |
| Before | | Performed Segregation | | | | | |
| 2014-15 Prior year Roll Values: | TL 100 | | TL 100 | **Right of Way taking** | | | |
| Land Size | 0 | | 0 | **No account is** | | | |
| **Parent** | | **Parent** | | **Created** | | | |
| RMV Land | $62,000 | RMV Land | $52,000 | RMV Land | $10,000 | | |
| OSD | $18,000 | OSD | $18,000 | OSD | $0 | | |
| RMV Imp | $210,000 | RMV Imp | $210,000 | RMV Imp | $0 | | |
| Total RMV | $290,000 | Total RMV | $280,000 | Total RMV | $10,000 | | |
| MAV = | $195,000 | MAV = | $188,370 | MAV = | $6,630 | | |
| AV = | $195,000 | AV = | $188,370 | AV = | $6,630 | | |
| | | After RMV | $280,000 | | $10,000 | | |
| Step 2 - Determine RMV Ratio: | | Start RMV | $290,000 | | $290,000 | | |
| Formula: TaxLot RMV/total RMV | | RMV Ratio | 0.966 | | 0.034 | | |
| Step 3 - Balance MAV proportionate to RMV: | | Start MAV | $195,000 | | $195,000 | | |
| Formula: Total MAV *RMV Ratio | | After MAV | $188,370 | EXEMPT | $6,630 | | |
| | | | | | | RMV | MAV |
| Step 4-Verify the math works! RMV/MAV totals for all accounts must match parent account without changes | | | | | | $290,000 | $195,000 |

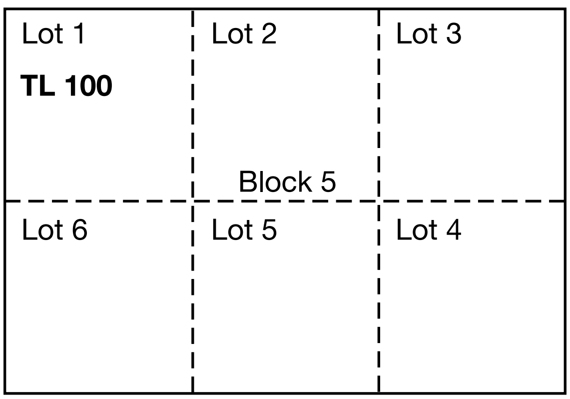
## Splitting tax lots within platted subdivisions

When tax lots are split on existing plat lines within a subdivision, that action **doesn't** constitute a partition for Measure 50 purposes. There is no definition for partition in Chapter 308, only in Chapter 92.

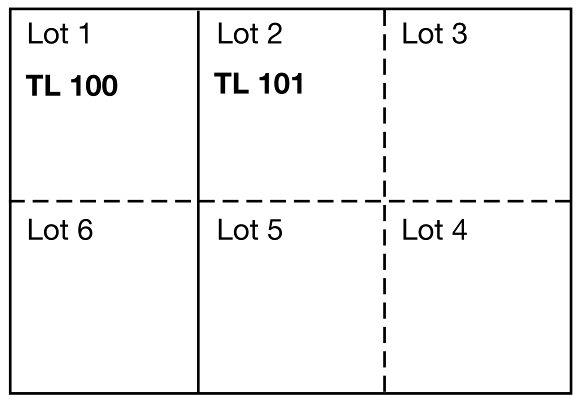
The tax court places little weight on the definitions in Chapter 92, because those definitions are specifically applied only to ORS 92.010 to 92.190. However with existing plat lines, the court has determined that the partition or subdivision occurs when the original parcel is platted into lots, regardless of whether or not those lots were later aggregated into a single tax lot. There is nothing to prevent the assessor from valuing each platted lot individually and summing the values to come to the value of the tax lot. Therefore, one of the main considerations in determining when a tax lot split is a partition is if there is a requirement to go through the planning process to create new lot lines, or if the lot lines being used previously existed.

The creation of tax lot 101 was accomplished by deed with no legal requirement to involve the planning department. The plat lines that were previously created were used to set the lot lines. Therefore, MAV before the tax lot was split will be allocated between the tax lots and not be recalculated as a Measure 50 exception.

**Before**

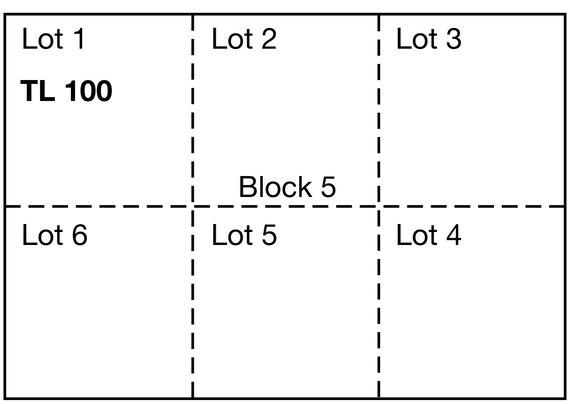



**After**

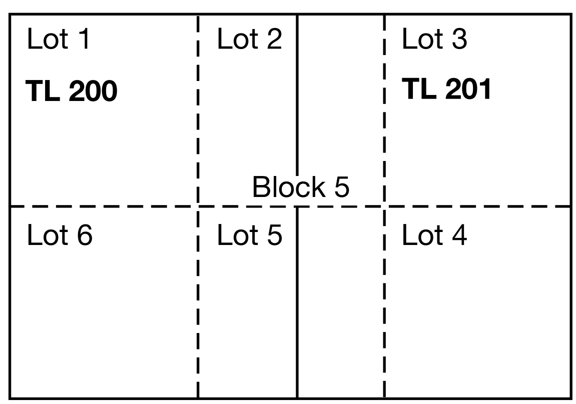



Conversely, when new tax lots are created by splitting on other than platted lot lines within a subdivision, as shown below, that action requires planning department approval. Because of this process, this tax lot split is a partition for Measure 50 purposes and an exception. The new MAV is calculated by multiplying the RMV of each resulting tax lot by the appropriate CPR.

**Before**




**After**



# Section 14—Maximum assessed value corrections

## Application for correction of MAV

ORS 311.234 provides for the correction of MAV for two circumstances. The first is where the square footage of the property shown in the assessor's records is incorrect. The error must be present as of the current assessment date.

The second circumstance for which MAV may be adjusted is if the assessor added exception value in any prior year, and the new property, or improvement to property, to which the exception related never actually existed. It must not have existed in the year it was added nor in any subsequent year.

The taxpayer must file an application with the assessor by December 31 of the current tax year before the MAV may be corrected in either circumstance. Our form, *Application for Correction of Maximum Assessed Value,* 150-310-092, is available at www.oregon.gov/dor.

## Correcting a square footage error

To properly adjust MAV for errors in square footage, the taxpayer must demonstrate a difference between actual square footage and the square footage shown in the assessor records. The assessor then must determine the change to the RMV resulting from that difference in square footage.

The correction to the MAV must be proportional to the correction of the RMV due to the error in square footage. However, the correction can't increase the MAV by more than 3 percent.

**Example**

A property consists of a 3-acre land parcel and two buildings.

Building 1 was incorrectly valued as having 2,000 square feet, when in fact it has only 1,500 square feet.

Current real market value (RMV) of the building with the error is $80,000.

Corrected RMV of the building with the error is $60,000.

The square footage on the land and other building is correct.

The property's total RMV is $400,000.

The property's total MAV is $300,000.

1. Correct RMV ÷ RMV of record = $380,000 ÷ $400,000 = 0.95

2. 0.95 x $300,000 Base MAV = $285,000 Corrected MAV

Note that prior to the legislative change prescribing that the correction to MAV be proportional to the correction to RMV, it was necessary to identify and apportion the MAV between the property affected and unaffected by the error in square footage. However since the correction is now proportionate to the correction to RMV, going through that procedure results in the same outcome, which in this case is a corrected MAV of $285,000.

## Correcting for new property or new improvements to property added in error

The county assessor has the discretion to determine how best to reflect the removal of the new property or new improvements from the assessment and tax rolls. However, the correction may not be made if the taxpayer merely demonstrates a difference in the nature, extent, or value of new property or new improvements to property. The new property or new improvements must not exist at all for the current or any prior assessment date. An example may be when a taxpayer obtained permits for a significant remodel of a structure, but never carried out the remodel. If the assessor added exception value to MAV due to the remodel, and the taxpayer files an application, the MAV can be corrected.

## Current year only

The correction of MAV for either of the circumstances in ORS 311.234 is allowed for the current tax year only. Of course, the change to the MAV for the current tax year will be reflected in future tax years. However, the statute doesn't allow corrections to any prior tax years.

## Clerical errors or errors of any kind under ORS 311.205

If a clerical error or error of any kind not involving valuation judgment occurs, and that error affected MAV, the MAV may be corrected under ORS 311.205(1)(a) or (b)(C). However, the error that affected MAV must have occurred within the time frame allowed for such corrections, which is for any tax years not exceeding five years prior to the last certified roll. If the MAV for all of the tax years you can reach is simply the application of the 103 percent test to the prior year's values, then there is no error in MAV. This is true even if there was a clerical or other error in the calculation of MAV six or more years ago.

**Example 1**

During the preparation of the 2016–17 assessment roll, it's discovered that when the RMV for a new building was added to an account for the 2012–11 tax year, no exception value was added to the MAV. Since the last certified roll is the 2015–16 tax roll, it's still possible to correct all tax rolls from 2010–11 forward, so the 2012–13 MAV and the MAV for all subsequent years may be corrected.

**Example 2**

During the preparation of the 2016–17 assessment roll, it's discovered that when the RMV for a new building was added to an account for the 2008–09 tax year, no exception value was added to the MAV. Since it's now too late to correct the 2008–09 tax roll, no correction can be made to any tax year for the error.

# Section 15—Manufactured structures

## Scenario: Land and real property manufactured structure on same account

For these examples the following facts apply:

- The manufactured structures are real property and are listed on the same account with the land and on-site development (OSD).
- All actions during an assessment year are considered simultaneous unless specifically addressed in ORS 308.166 (order of exceptions).
- OSD and off-site development are included as an increment to the land value.

The 103 percent test is assumed to have been performed prior to the calculations in the examples.

### Example 1: New real property manufactured structure moved on to property.

**Beginning values:**

RMV of land and OSD = $100,000

MAV of land and OSD = $65,000

Value of new manufactured structure = $120,000

CPR = 0.75

RMV of manufactured structure times CPR = the change to MAV

Addition to MAV = $120,000 x 0.75 = $90,000

**New values:**

Total RMV $100,000 + $120,000 = $220,000

Total MAV $65,000 + $90,000 = $155,000

### Example 2a: Real property manufactured structure moved off property and *no application filed:*

Since there was no application for MAV reduction under ORS 308.146(8), there is no adjustment to MAV. Only the RMV attributable to the manufactured structure can be subtracted from the total RMV.

**Beginning values:**

RMV of land and OSD = $100,000
RMV of manufactured structure before move = $40,000
MAV total before move = $91,000

1. No application for MAV reduction under ORS 308.146(8).
   Manufactured structure RMV removed from total RMV.
   No adjustment to MAV.

**New values:**

Total RMV $140,000 - $40,000 = $100,000
Total MAV $91,000 - $0 = $91,000

### Example 2b: Real property manufactured structure moved off property and *an application is filed:*

In this instance, the taxpayer filed the application for MAV reduction under ORS 308.146(8). As in the case when no application is filed, the manufactured structure's RMV is subtracted from total RMV. In addition, the MAV is adjusted to reflect removal of the manufactured structure also.

**Beginning values:**

RMV of land / OSD = $100,000
RMV of manufactured structure before move = $40,000
MAV total before move = $91,000

**Step 1—**Manufactured structure RMV is ***subtracted*** from total RMV
* $140,000 - $40,000 = $100,000

**Step 2—**Calculate ***unaffected*** RMV ratio (to determine ratio for MAV calculation)
Unaffected RMV (land / OSD) ***divided*** by Total RMV = unaffected RMV Ratio
* $100,000 / $140,000 = 0.7143

**Step 3—**Determine MAV of unaffected property:
MAV as if no change x Unaffected ratio = Unaffected MAV
* $91,000 x 0.7143 = $65,001

**New values:**

Total RMV $140,000 - $100,000 = $100,000

Total MAV (See calculations above) = $65,001

### Example 3a: Real property manufactured structure moved off property and replaced with new real property manufactured structure. No application for reduction was filed.

Assume removal and replacement happens in the same assessment year.

**Beginning values:**

RMV of land and OSD = $100,000

RMV of existing manufactured structure = $40,000

Total MAV = $91,000

RMV of new manufactured structure = $120,000

CPR = 0.75

No application for MAV reduction under ORS 308.146(8).

Net RMV of removed and new manufactured structure.

Multiply netted RMV times CPR as an adjustment to MAV.

Calculate RMV of new manufactured structure less RMV of removed manufactured structure (netting).
$120,000 - $40,000 = $80,000

Multiply netted RMV by CPR as an addition to MAV.
$80,000 x 0.750 = $60,000

**New values:**

Total RMV $100,000 + $120,000 = $220,000

Total MAV $91,000 + $60,000 = $151,000

### Example 3b: Real property manufactured structure moved off property and replaced with new real property manufactured structure with an application filed for reduction.

If application for MAV reduction under ORS 308.146(8) these steps are followed:

Reduce MAV for removal of old manufactured structure.

Multiply new improvement (manufactured structure) RMV by CPR as an adjustment to MAV.

Calculate unaffected portion: $100,000

Calculate unaffected portion:

$$\frac{\$100{,}000}{\$140{,}000} = 0.7143$$

Calculate unaffected MAV: $91,000 x 0.7143 = $65,001

Calculate adjustment to MAV: $120,000 x 0.750 = $90,000

**New values:**

Total RMV $100,000 + $120,000 = $220,000

Total MAV $65,001 + $90,000 = $155,001

### Example 4: Real property manufactured structure is sold and becomes personal property but isn't moved. One account becomes two accounts.

In this example, start with the land and manufactured structure as one account. When the manufactured structure is sold, a new manufactured structure personal property account must be created.

**Note:** For more information, refer to 308.162 property tax account modifications; subsection (2), if a single property tax account is divided into two or more accounts.

**Beginning values:**

RMV of land and OSD = $100,000

RMV of manufactured structure = $40,000

MAV total = $91,000

Allocate MAV between the two accounts.

Calculate percentage of RMV for the real property.

$$\frac{\$100{,}000}{\$140{,}000} = 0.7143$$

Calculate percentage of RMV for the personal property manufactured structure.

$$\frac{\$40{,}000}{\$140{,}000} = 0.2857$$

Calculate MAV for the real property portion.

0.7143 x $91,000 = $65,001

Calculate MAV for the personal property manufactured structure account.

0.2857 x $91,000 = $25,999

**New values:** (assuming no RMV change due to the split)

Real property RMV = $100,000

Real property MAV = $65,001

Personal property RMV = $40,000

Personal property MAV = $25,999

## Scenario: Land and personal or real property manufactured structure are separate accounts

For these examples the following facts apply:

- Manufactured structures are on a separate account from the land and OSD.
- The 103 percent test is assumed to have been performed prior to the calculations in the examples.

**Example 1: New manufactured structure moved on to land under same ownership.**

RMV of manufactured structure x CPR = MAV for new real property manufactured structure account.

**Example 2: Manufactured structure moved off property.**

This example can be handled in two different ways:

1. Account transferred to new location with new RMV x CPR = MAV; or
2. Manufactured structure account cancelled with no RMV or MAV.

**Example 3: Manufactured structure moved off and replaced with new manufactured structure.**

**Old manufactured structure account:**

1. Old account transferred to new location with new RMV x CPR = MAV; or
2. Account inactive with no RMV or MAV.

**New manufactured structure account:**
RMV x CPR = MAV for new real property manufactured structure account.

**Example 4: Real property manufactured structure is sold and becomes personal property, but isn't moved. Land is a separate account.**

Manufactured structure account coded to reflect it's now personal property manufactured structure. Calculate new RMV. MAV remains the same.

# Section 16—Order of calculations when multiple exceptions occur

ORS 308.166 provides guidance for situations where two or more changes affect a property in a single assessment year. Each subsection describes a particular set of exceptions and indicates which exception is calculated first. Calculate MAV adjustment for, in order of priority:

1. Destruction or damage by a fire or act of God, or the removal or demolition of a building.
2. New property or new improvements to property.
3. Subdivision or partition, rezoning, omitted property, disqualification from exemption, partial exemption, or special assessment.
4. Lot line adjustments.

# Section 17—Appendix
# Table of contents

## Changed property analysis matrix

### Sub-category: Structures

| Description of change | Changed property category | Allows change of MAV? | Allows change of RMV? | ORS and OAR reference |
|---|---|---|---|---|
| Any new construction / major addition totaling more than $10,000 in one year or $25,000 over five years. | Exception | Yes | Yes | ORS 308.149 & 308.153<br>OAR 150-308-0160 |
| Reconstruction of existing property. | Exception | Yes | Yes | ORS 308.149 & 308.153<br>OAR 150-308-0130 |
| Remodeling of existing property. | Exception | Yes | Yes | ORS 308.149 & 308.153<br>OAR 150-308-0130 |
| Renovation of existing property. | Exception | Yes | Yes | ORS 308.149 & 308.153<br>OAR 150-308-0130 |
| Rehabilitation of existing property. | Exception | Yes | Yes | ORS 308.149 & 308.153<br>OAR 150-308-0130 |
| Restoration of existing property. | Exception | Yes | Yes | ORS 308.149 & 308.153<br>OAR 150-308-0130 |
| Property that was an integral part of property on the roll, but wasn't included in the assessment for a prior tax year, added as new property. | Exception | Yes | Yes | ORS 308.153(3) |
| General ongoing maintenance and repair of any value. | RMV change | No | Yes | ORS 308.149(6)<br>OAR 150-308-0130 |
| Minor construction totaling less than $10,001 in one year, or less than $25,001 over five years. | RMV change | No | Yes | ORS 308.149(5) & (6)<br>OAR 150-308-0160 |
| Improvement physically moved to different location. (Unless subject to ORS 308.162.) | Exception | Yes | Yes | ORS 308.149(6) |
| Value of structure moved from one account to another. Structure not physically moved. | MAV balance | Balance | Balance | ORS 308.162 |
| Error in square footage calculation corrected by review or reappraisal. No structural change. | RMV change | No | Yes | |
| Error in square footage indicated by taxpayer application. Allows for reduction only. | Exception | Yes | No | ORS 311.234<br>OAR 150-311-0240 |
| Floor levels reclassified after base year. | RMV change | No | Yes | |
| Inventory record corrected upon review or reappraisal after base year unless omitted property. | RMV change | No | Yes | |
| Loss in value of property if destroyed or damaged due to a fire or act of God. Allows for reduction only. | Exception | Yes | Yes | ORS 308.146(5)<br>OAR 150-308-0110 |
| Building removed / demolished, not by fire or act of God. Allows for reduction only. | Exception | Yes | Yes | ORS 308.146(8) |

## Sub-category: Land

| Description of change | Changed property category | Allows change of MAV? | Allows change of RMV? | ORS and OAR reference |
|---|---|---|---|---|
| Improvements to land, either on-site or off-site greater than $10,000 in one year or $25,000 within five years. (ORS 307.010.) | Exception | Yes | Yes | ORS 308.153 & 307.010<br>OAR 150-307-0010 |
| Event on property or on contiguous property triggers change in value attributed to existing physical characteristic of land. | RMV change | No | Yes | |
| Combination of two or more accounts. | MAV balance | Balance | Yes | ORS 308.162 |
| Previously existing landscaping revalued. | RMV change | No | Yes | |
| Property is rezoned and use doesn't change. | RMV change | No | Yes | ORS 308.156(2) |
| Property is rezoned and use is consistent with new zoning. | Exception | Yes | Yes | ORS 308.156(2)<br>OAR 150-308-0200 |
| Lot lines of property are adjusted. | Exception | Yes limit | Yes | ORS 308.159<br>OAR 150-308-0230 |
| Property is subdivided or partitioned under Chapter 92. (Not subject to ORS 308.162.) | Exception | Yes | Yes | ORS 308.156(1)<br>OAR 150-308-0190 |
| Property is subdivided or partitioned only by deed division or court order. (Not subject to ORS 308.162.) | Exception | Yes | Yes | ORS 308.156(1)<br>OAR 150-308-0190 |
| Property is divided on existing lot lines established by prior Chapter 92 subdivision or partition process. | MAV balance | Balance | Yes | ORS 308.162 |
| Portion of property valued as a unit or part of total is sold. | RMV change | No | Yes | |

## Sub-category: Personal property / MS / M & E

| Description of change | Changed property category | Allows change of MAV? | Allows change of RMV? | ORS and OAR reference |
|---|---|---|---|---|
| Siting/installation of MS or floating structure. | Exception | Yes | Yes | ORS 308.149(5) |
| Rehabilitation of MS or floating structure. | Exception | Yes | Yes | ORS 308.149(5) |
| MS transferred from one roll to another, but not physically moved. | MAV balance | Balance | Yes | ORS 308.162 |
| MS physically moved to different location. | Exception | Yes | Yes | ORS 308.149(5) |
| Change of classification of M & E from real to personal or personal to real. | MAV balance | Balance | Yes | ORS 308.162 |
| New account is created for new personal property. | Exception | Yes | Yes | ORS 308.153 |
| Personal property physically moved from one account to another, unless subject to ORS 308.162. | Exception | Yes | Yes | ORS 308.153 |
| Personal property value transferred from one account to another, but not physically moved. | MAV balance | Balance | Yes | ORS 308.162 |
| M & E transferred from one account to another, but not physically moved. | MAV balance | Balance | Yes | ORS 308.162 |

## Sub-category: Code area changes

| Description of change | Changed property category | Allows change of MAV? | Allows change of RMV? | ORS and OAR reference |
|---|---|---|---|---|
| Code area changes for any reason. | Not a change | NA | NA | |
| Property physically moved to different code area. | Exception | Yes | Yes | ORS 308.149(5) |

## Sub-category: Exemptions and special assessments

(MV = market value MAV; SA = specially assessed MSAV)

| Description of change | Changed property category | Allows change of MAV? | Allows change of RMV? | ORS and OAR reference |
|---|---|---|---|---|
| Property changed from exempt or partially exempt to taxable. | Exception | Yes—MV | Yes* | ORS 308.156(4) OAR 150-308-0220 |
| Property disqualified from special assessment. | Exception | Yes—MV | Yes* | ORS 308.156(4) OAR 150-308-0220 |
| Property changed from one special assessment, exemption, or partial exemption to another special assessment, exemption, or partial exemption. | MSAV change | Yes—MV Yes—SA | Yes | ORS 308.156(4) & 308A.724 |
| Error in classification of specially assessed land corrected after base year. Land isn't changed or improved. | MAV / MSAV change | No—MV Yes—SA | Yes | OAR 150-308-1090 |
| Classification of specially assessed land is changed due to improvements to the land and land is revalued. | Exception | Yes—MV Yes—SA | Yes | |
| Newly qualified property changed from market to specially assessed. | NA | No—MV Yes—SA | No | |

## Sub-category: Miscellaneous

| Description of change | Changed property category | Allows change of MAV? | Allows change of RMV? | ORS and OAR reference |
|---|---|---|---|---|
| Property class change. Not rezoned. | RMV change | No | Yes | OAR 150-308-0100 |
| Property contaminated. RMV reduced to reflect contamination. | RMV change | No | Yes | OAR 150-308-0270 |
| Correction of contamination. If RMV was reduced to reflect contamination, then RMV and MAV adjusted as clean-up occurs. | Exception | Yes | Yes | OAR 150-308-0270 |
| Market area changed (neighborhood, value area). | RMV change | No | Yes | |

Every property in Oregon is required to have a RMV that reflects 100 percent of the current market value. When a property is disqualified, the assessor may correct RMV that is used to establish the exception value.

## Sub-category: Corrections

(MV = market value MAV; SA = specially assessed MSAV)

| Description of change | Changed property category | Allows change of MAV? | Allows change of RMV? | ORS and OAR reference |
|---|---|---|---|---|
| Omitted property added to roll. | Exception | Yes | Yes | ORS 308.156(3)<br>OAR 150-308-0210 |
| Correction of clerical error or error or omission of another kind. | Exception* | Yes | Yes | ORS 308.156(3) |
| Settlement of appeal affects value for base year and changes MAV. | NA | Changes base MAV | Yes | |
| Appeal reduces total value of property after base year, unless a MAV change is included in order / decision. | RMV change | No | Yes | |
| Appeal reduces total value of property. Property includes an exception added after base year. Use best information to arrive at value attributable to the exception. | Exception | Yes | Yes | |

* Only if the clerical error affected MAV, and the year the error actually occurred is within the time frame spanning the current certified roll and five prior rolls.

## Measure 50 definitions

**Area:** The county in which a property is located. If the property is centrally assessed under ORS 308.505 to 308.665, "area" refers to this state. Cities in Multnomah County may adopt an ordinance to define "area" as the city.

**Assessed value (AV):** Lesser of the property's MAV or RMV. For specially assessed property, the lesser of RMV or MAV for any market portion, plus the lesser of the SAV or MSAV for each individual soil class, qualified homesite, and on-site development.

**Average maximum assessed value:** The average MAV of unchanged properties in an area, determined by dividing the total MAV of all unchanged properties in the area in the same property class by the total number of those properties.

**Average real market value:** The average RMV of unchanged properties in an area, determined by dividing the total RMV of all unchanged property in the area in the same property class by the total number of those properties.

**Changed property ratio (CPR):** Ratio determined by dividing the average MAV by the average RMV for the same area and property class of unchanged property.

**Exception:** A change to property that allows MAV to increase by more than 3 percent, which doesn't include general ongoing maintenance and repair.

**General ongoing maintenance and repair:** The repair or replacement of existing materials due to normal wear, tear, or deterioration. Examples of ongoing maintenance and repair may include: roof replacement, painting, replacement of floor, or wall covering. MAV of the property can't be increased based on general ongoing maintenance and repair.

**Lot line adjustment:** Any addition to the square footage of the land for a real property tax account and the corresponding subtraction of square footage of the land from a contiguous real property tax account.

**Major addition:** An addition that has a RMV over $10,000 and adds square footage to an existing structure.

**Maximum assessed value (MAV):** The maximum (limit) for a property's AV, as required by Measure 50. For the 1997–98 tax year, MAV was the 1995–96 RMV less 10 percent. For tax years after 1997–98, MAV is the greater of 103 percent of the property's AV from the prior year or 100 percent of the property's MAV from the prior year. MAV may increase to reflect changes to the property (exceptions).

**Maximum specially assessed value (MSAV):** The maximum (limit) for a property's SAV. For the 1997–98 tax year, MSAV was the 1995–96 SAV less 10 percent. MSAV may be increased or recalculated under certain circumstances to reflect changes to the property. For tax years 1997–98 through 2002–03, MSAV increased by 3 percent per year. For tax years after 2002–03, MAV is the greater of 103 percent of the property's AV per acre from the prior year or 100 percent of the property's MSAV per acre from the prior year.

**Minor construction:** An improvement to real property that results in an addition to RMV, but doesn't qualify as an addition to MAV due to a RMV threshold. The threshold necessary to result in an addition to MAV is an addition to RMV of over $10,000 in any one assessment year, or over $25,000 for all additions made over five assessment years.

**Modernization:** A type of renovation in which worn or outdated elements are replaced with their current counterparts.

**Net additions:** In calculating the addition to MAV for new property and new improvements, the amount added will be RMV of the new property or new improvements less RMV of retired property, but it can't be total less than zero.

**New construction:** Any new structure, building, addition, or improvement to the land, including site development.

**Omitted property:** Property discovered and added to the roll after the roll is certified to the tax collector.

**Property:** All property included within a single property tax account, or if centrally assessed, the total statewide value of all property assessed to a company.

**Property class:** The classification of property adopted by the Department of Revenue by rule, except for property assessed under ORS 308.505 to 308.665. Property class is the total of all property set forth in the assessment roll prepared under ORS 308.540. Only the first dig it's considered, which represents the property's highest and best use.

**Real market value:** The amount, in cash, that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as of the assessment date for the tax year, as established by law.

**Reconstruction:** To rebuild or replace an existing structure with one of comparable utility.

**Rehabilitation:** To restore to former condition without changing the basic plan, form, or style of the structure.

**Remodeling:** A type of renovation that changes the basic plan, form, or style of the property.

**Renovation:** The process by which older structures or historic buildings are modernized, remodeled, or restored.

**Restoration:** A type of renovation in which a property is returned to its original appearance and condition.

## Statutes for MAV and AV

### ORS 307.032 Maximum assessed value and assessed value of partially exempt property and specially assessed property.

(1) Unless determined under a provision of law governing the partial exemption that applies to the property, the maximum assessed value and assessed value of partially exempt property shall be determined as follows:

(a) The maximum assessed value:

(A) For the first tax year in which the property is partially exempt, shall equal the real market value of the property, reduced by the value of the partial exemption, multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the tax year of property in the same area and property class.

(B) For each tax year after the first tax year in which the property is subject to the same partial exemption, shall equal 103 percent of the property's assessed value for the prior year or 100 percent of the property's maximum assessed value under this paragraph from the prior year, whichever is greater.

(b) The assessed value of the property shall equal the lesser of:

(A) The real market value of the property reduced by the partial exemption; or

(B) The maximum assessed value of the property under paragraph (a) of this subsection.

(2) Unless determined under a provision of law governing the special assessment, the maximum assessed value subject to special assessment and the assessed value of property subject to special assessment shall be determined as follows:

(a) The maximum assessed value:

(A) For the first tax year in which the property is specially assessed, shall equal the specially assessed value of the property multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the tax year of property in the same area and property class.

(B) For each tax year after the first tax year in which property is subject to the same special assessment, shall equal 103 percent of the property's assessed value for the prior year or 100 percent of the property's maximum assessed value subject to special assessment from the prior year, whichever is greater.

(b) The assessed value of the property shall equal the lesser of:

(A) The specially assessed value of the property as determined under the law establishing the special assessment; or

(B) The property's maximum assessed value subject to special assessment as determined under paragraph (a) of this subsection.

(3) As used in this section, "area" and "property class" have the meanings given those terms in ORS 308.149.

[2003 c.169 §6]

## Generally

### ORS 308.142 "Property" and "property tax account" defined.

For purposes of determining whether the assessed value of property exceeds the property's maximum assessed value permitted under section 11, Article XI of the Oregon Constitution:

(1) "Property" means:

(a) All property included within a single property tax account; or

(b) In the case of property that is centrally assessed under ORS 308.505 to 308.665, the total statewide value of all property assessed to a company or utility that is subject to ORS 308.505 to 308.665.

(2) "Property tax account" means the administrative division of property for purposes of listing on the assessment roll under ORS 308.215 for the tax year for which maximum assessed value is being determined or, in the case of a private railcar company, the administrative division provided under ORS 308.640.

[1997 c.541 §7; 1999 c.223 §7]

### ORS 308.146 Determination of maximum assessed value and assessed value; reduction in maximum assessed value following property destruction; effect of conservation or highway scenic preservation easement.

(1) The maximum assessed value of property equals 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, whichever is greater.

(2) Except as provided in subsections (3) and (4) of this section, the assessed value of property to which this section applies equals the lesser of:

(a) The property's maximum assessed value; or

(b) The property's real market value.

(3) Notwithstanding subsections (1) and (2) of this section, the maximum assessed value and assessed value of property must be determined as provided in ORS 308.149 to 308.166 if:

(a) The property is new property or new improvements to property;

(b) The property is partitioned or subdivided;

(c) The property is rezoned and used consistently with the rezoning;

(d) The property is first taken into account as omitted property;

(e) The property becomes disqualified from exemption, partial exemption or special assessment; or

(f) A lot line adjustment is made with respect to the property, except that the total assessed value of all property affected by a lot line adjustment may not exceed the total maximum assessed value of the affected property under subsection (1) of this section.

(4) Notwithstanding subsections (1) and (2) of this section, if property is subject to partial exemption or special assessment, the property's maximum assessed value and assessed value must be determined as provided under the provisions of law governing the partial exemption or special assessment.

(5)(a) Notwithstanding subsection (1) of this section, when a portion of property is destroyed or damaged due to fire or act of God, for the year in which the destruction or damage is reflected by a reduction in real market value, the maximum assessed value of the property must be reduced to reflect the loss from fire or act of God.

(b) This subsection doesn't apply:

(A) To any property that is assessed under ORS 308.505 to 308.665.

(B) If the damaged or destroyed property is property that, when added to the assessment and tax roll, constituted minor construction for which no adjustment to maximum assessed value was made.

(c) As used in this subsection, "minor construction" has the meaning given that term in ORS 308.149.

(6)(a) If, during the period beginning on January 1 and ending on July 1 of an assessment year, any real or personal property is destroyed or damaged, the owner or purchaser under a recorded instrument of sale in the case of real property, or the person assessed, person in possession or owner in the case of personal property, may apply to the county assessor to have the real market and assessed value of the property determined as of July 1 of the current assessment year.

(b) The person described in paragraph (a) of this subsection must file an application for assessment under this section with the county assessor on or before the later of:

(A) August 1 of the current year; or

(B) The 60th day following the date on which the property was damaged or destroyed.

(c) Notwithstanding paragraph (b) of this subsection, an application may be filed under this subsection on or before December 31 of the current assessment year, if the application is accompanied by a late filing fee of the greater of $200 or one-tenth of one percent of the real market value as of the most recent assessment date of the property to which the application relates. The county assessor shall deposit a late filing fee collected under this paragraph in the county general fund.

(d) If the conditions described in this subsection are applicable to the property, then notwithstanding ORS 308.210, the property must be assessed as of July 1, at 1:00 a.m. of the assessment year, in the manner otherwise provided by law.

(7)(a) Paragraph (b) of this subsection applies if:

(A) A conservation easement or highway scenic preservation easement is in effect on the assessment date;

(B) The tax year is the first tax year in which the conservation easement or highway scenic preservation easement is taken into account in determining the property's assessed value; and

(C) A report has been issued by the county assessor under ORS 271.729 within 12 months preceding or following the date the easement was recorded.

(b) The assessed value of the property must be as determined in the report issued under ORS 271.729, but may be further adjusted by changes in value as a result of any of the factors described in ORS 309.115(2), to the extent adjustments don't cause the assessed value of the property to exceed the property's maximum assessed value.

(8)(a) Notwithstanding subsection (1) of this section, when a building is demolished or removed from property, for the year in which the demolition or removal of the building is reflected by a reduction in real market value, the maximum assessed value of the property may be reduced to reflect the demolition or removal of the building.

(b) This subsection doesn't apply:

(A) To any property that is assessed under ORS 308.505 to 308.665.

(B) If the demolished or removed property is property that, when added to the assessment and tax roll, constituted minor construction for which no adjustment to maximum assessed value was made.

(c) To receive the reduction in maximum assessed value of the property under this subsection, the property owner must file an application with the county assessor after the demolition or removal and on or before December 31 following the assessment date if the demolition or removal occurred:

(A) Before the January 1 assessment date; or

(B) During the period beginning January 1 and ending on the July 1 assessment date if the property owner has applied to have the real market and assessed value of the property determined under subsection (6) of this section.

(d) As used in this subsection:

(A) "Minor construction" has the meaning given that term in ORS 308.149.

(B) "Property owner" means an owner or purchaser under a recorded instrument of sale in the case of real property, or the person assessed, person in possession or owner in the case of personal

[1997 c.541 §6; 1999 c.1003 §1; 2001 c.925 §12; 2003 c.46 §15; 2003 c.169 §7; 2007 c.450 §1; 2007 c.516 §1; 2009 c.443 §1; 2015 c.92 §1; 2015 c.480 §1]

## Special determinations of value

### ORS 308.149 Definitions for ORS 308.149 to 308.166. As used in ORS 308.149 to 308.166:

(1) "Area" means:

(a) The county in which property, the maximum assessed value of which is being adjusted, is located, including the area of any city located within the county that has adopted an ordinance or resolution pursuant to ORS 308.151;

(b) The city in which property, the maximum assessed value of which is being adjusted, is located, if the city has adopted an ordinance or resolution pursuant to ORS 308.151; or

(c) This state, if the property for which the maximum assessed value is being adjusted is property that is centrally assessed under ORS 308.505 to 308.681.

(2)(a) "Average maximum assessed value" means the value determined by dividing the total maximum assessed value of all property in the same area in the same property class by the total number of properties in the same area in the same property class.

(b) In making the calculation described under this subsection, the following property isn't taken into account:

(A) New property or new improvements to property;

(B) Property that is partitioned or subdivided;

(C) Property that is rezoned and used consistently with the rezoning;

(D) Property that is added to the assessment and tax roll as omitted property; or

(E) Property that is disqualified from exemption, partial exemption or special assessment.

(c) Paragraph (b), (B), (C), (D) and (E) of this subsection doesn't apply to the calculation of average maximum assessed value in the case of property centrally assessed under ORS 308.505 to 308.665.

(3)(a) "Average real market value" means the value determined by dividing the total real market value of all property in the same area in the same property class by the total number of properties in the same area in the same property class.

(b) In making the calculation described under this subsection, the following property isn't taken into account:

(A) New property or new improvements to property;

(B) Property that is partitioned or subdivided;

(C) Property that is rezoned and used consistently with the rezoning;

(D) Property that is added to the assessment and tax roll as omitted property; or

(E) Property that is disqualified from exemption, partial exemption or special assessment.

(c) Paragraph (b), (B), (C), (D) and (E) of this subsection doesn't apply to the calculation of average real market value in the case of property centrally assessed under ORS 308.505 to 308.665.

(4) "Lot line adjustment" means any addition to the square footage of the land for a real property tax account and a corresponding subtraction of square footage of the land from a contiguous real property tax account.

(5) "Minor construction" means additions of real property improvements, the real market value of which doesn't exceed $10,000 in any assessment year or $25,000 for cumulative additions made over five assessment years.

(6)(a) "New property or new improvements" means changes in the value of property as the result of:

(A) New construction, reconstruction, major additions, remodeling, renovation or rehabilitation of property;

(B) The siting, installation or rehabilitation of manufactured structures or floating homes; or

(C) The addition of machinery, fixtures, furnishings, equipment or other taxable real or personal property to the property tax account.

(b) "New property or new improvements" doesn't include changes in the value of the property as the result of:

(A) General ongoing maintenance and repair; or

(B) Minor construction.

(c) "New property or new improvements" includes taxable property that on January 1 of the assessment year is located in a different tax code area than on January 1 of the preceding assessment year.

(7) "Property class" means the classification of property adopted by the Department of Revenue by rule pursuant to ORS 308.215, except that in the case of property assessed under ORS 308.505 to 308.665, "property class" means the total of all property set forth in the assessment roll prepared under ORS 308.540.

[1997 c.541 §9; 1999 c.579 §20; 2012 c.30 §2; 2017 c.414 §3]

## 308.151 Certain cities authorized to define "area" as city by ordinance or resolution; supermajority required; software costs withheld from property taxes.

(1) This section applies to a city if the majority of the population of the city resides in a county with a population greater than 700,000.

(2)(a) For purposes of ORS 308.149, the governing body of a city may adopt an ordinance or resolution defining "area" to mean the city.

(b) An ordinance or resolution may be adopted under this section only after a public hearing and must be approved by a three-fifths majority of the members of the governing body of the city.

(3) A governing body that adopts an ordinance or resolution under this section must notify the county assessor on or before January 1 of the assessment year for which the city first intends the definition to apply.

(4) The governing body of a city may not adopt an ordinance or resolution under this section, or repeal such an ordinance or resolution, more often than once in five years.

(5)(a) The county assessor may withhold from property tax distributions made under ORS 311.395 to cities located in the county amounts for the actual costs incurred by the county for software upgrades required because of the adoption by the cities of ordinances and resolutions under this section.

(b) Amounts withheld under this subsection:

(A) Shall be in proportion to the total property taxes imposed in the current tax year by cities adopting ordinances or resolutions under this section; and

(B) May not exceed $60,000 in total. [2017 c.414 §2]

**Note:** Section 5, chapter 414, Oregon Laws 2017, provides:

**Sec. 5.** (1) A definition of "area" adopted under section 2 of this 2017 Act [308.151] may not be applied to any assessment year beginning before January 1, 2019.

(2) Notwithstanding subsection (1) of this section, a definition of "area" adopted under section 2 of this 2017 Act may be applied to assessment years beginning on or after January 1, 2018, with the written consent of the assessor of the county in which the city adopting the definition is located. [2017 c.414 §5]

## ORS 308.153 New property and new improvements to property.

(1) If new property is added to the assessment roll or improvements are made to property as of January 1 of the assessment year, the maximum assessed value of the property is the sum of:

(a) The maximum assessed value determined under ORS 308.146; and

(b) The product of the value of the new property or new improvements determined under subsection (2)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year.

(2)(a) The value of new property or new improvements equals the real market value of the new property or new improvements reduced (but not below zero) by the real market value of retirements from the property tax account.

(b) If the maximum assessed value of property is adjusted for fire or act of God or for demolition or removal of a building under ORS 308.146, the reduction in real market value due to fire or act of God or demolition or removal of the building may not be considered to be a retirement under this subsection.

(3)(a) For purposes of this section, property shall be considered new property, or new improvements to property, for a tax year if the property:

(A) Constituted an integral part of the land or improvements on the assessment date or the date of a site inspection by the assessor for appraisal purposes for any prior tax year;

(B) Has been continuously in existence since the prior tax year; and

(C) Wasn't included in the assessment of the land or improvements for any prior tax year.

(b) The following is evidence that the property wasn't included in the assessment of the land or improvements for a prior tax year:

(A) There is no express reference to the property in the records of the assessor; and

(B) The assessor's valuation of the land or improvements of which the property is an integral part increases as a result of inclusion of the property in the assessment.

(4) The property's assessed value for the year equals the lesser of:

(a) The property's maximum assessed value; or

(b) The property's real market value.

[1997 c.541 §11; 1999 c.1003 §4; 2001 c.509 §9; 2007 c.516 §2; 2015 c.97 §2; 2015 c.480 §2]

## ORS 308.156 Subdivision or partition; rezoning; omitted property; disqualification from exemption, partial exemption or special assessment.

(1) If property is subdivided or partitioned after January 1 of the preceding assessment year and on or before January 1 of the current assessment year, then the property's maximum assessed value shall be established as provided under this section.

(2) If property is rezoned and, after January 1 of the preceding assessment year and on or before January 1 of the current assessment year, the property is used consistently with the rezoning, the property's maximum assessed value shall be established under this section.

(3)(a) For the first tax year for which property is added to the property tax account as omitted property, the property's maximum assessed value shall be established under this section.

(b) For tax years subsequent to the first tax year for which property is added to the property tax account as omitted property, the property's maximum assessed value shall be determined as otherwise provided by law, taking into account the maximum assessed value of the property as determined under this section.

(4)(a) If property was subject to exemption, partial exemption or special assessment as of the January 1 assessment date of the preceding assessment year and is disqualified from exemption, partial exemption or special assessment as of the January 1 of the current assessment year, the property's maximum assessed value shall be established under this section.

(b) If property described in this subsection is eligible for a different type of exemption, partial exemption or special assessment as of January 1 of the current assessment year, the property's maximum assessed value shall be established under the provision granting the partial exemption or special assessment.

(5) The property's maximum assessed value shall be the sum of:

(a) The maximum assessed value determined under ORS 308.146 that is allocable to that portion of the property not affected by an event described in subsection (1), (2), (3), or (4)(a) of this section; and

(b) The product of the real market value of that portion of the property that is affected by an event described in subsection (1), (2), (3), or (4)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year.

(6) The property's assessed value for the year shall equal the lesser of:

(a) The property's maximum assessed value; or

(b) The property's real market value.

(7) The Department of Revenue shall provide by rule the method by which the allocations described in subsection (5) of this section are to be made.

[1997 c.541 §13; 1999 c.500 §1; 1999 c.579 §21; 2001 c.509 §10; 2005 c.213 §1; 2017 c.414 §4]

### ORS 308.159 Lot line adjustments.

If a lot line adjustment is made with respect to property, the maximum assessed value of the property may be adjusted to reflect the lot line adjustment, but the total maximum assessed value of all property affected by the lot line adjustment may not exceed the total maximum assessed value of the affected property determined under ORS 308.146, or, if applicable, under ORS 308.153 or 308.156.

[1997 c.541 §15; 1999 c.21 §16]

### ORS 308.162 Property tax account modifications.

(1) If two or more property tax accounts are merged into a single account, or if property that is attributable to one account is changed to another account, the maximum assessed value of the property may be adjusted to reflect the merger or change, but the total maximum assessed value for all affected accounts may not exceed the total maximum assessed value the accounts would have had under ORS 308.146 or 308.149 to 308.166 if the merger or change hadn't occurred.

(2) If a single property tax account is divided into two or more accounts, the maximum assessed value of all property affected by the division may not exceed the total maximum assessed value of the affected property determined under ORS 308.146 or 308.149 to 308.166.

[1997 c.541 §16a]

### ORS 308.166 Ordering provisions when property is subject to multiple special determinations of value.

(1) If the maximum assessed value of property is subject to adjustment under both ORS 308.153 and 308.156, the maximum assessed value must first be determined under ORS 308.153 and then further adjusted under ORS 308.156.

(2) If the maximum assessed value of property is subject to adjustment under both ORS 308.153 and 308.159, the maximum assessed value must first be determined under ORS 308.153 and then further adjusted under ORS 308.159.

(3) If the maximum assessed value of property is subject to adjustment under both ORS 308.156 and 308.159, the maximum assessed value must first be determined under ORS 308.156 and then further adjusted under ORS 308.159.

(4) If the maximum assessed value of property is subject to adjustment under all of ORS 308.153, 308.156 and 308.159, the maximum assessed value must first be determined under subsection (1) of this section and then further adjusted under ORS 308.159.

(5) If the maximum assessed value of property is subject to adjustment for fire or act of God, the maximum assessed value must first be determined under ORS 308.146(5)(a) and then may be adjusted as provided in subsections (1) to (4) of this section.

(6) If the maximum assessed value of property is subject to adjustment for demolition or removal of a building, the maximum assessed value must first be determined under ORS 308.146(8)(a) and then may be adjusted as provided in subsections (1) to (4) of this section.

[1997 c.541 §17; 1999 c.1003 §6; 2003 c.30 §1; 2009 c.443 §2; 2015 c.480 §3]

### ORS 311.234 Correction in maximum assessed value; requirements; limitation; filing deadline; appeals.

(1) The current owner of property or other person obligated to pay taxes imposed on property may petition the county assessor for a correction in the maximum assessed value of the property for the current tax year for the circumstances described in subsection (2) of this section.

(2) The assessor shall correct the maximum assessed value of the property for the current tax year if, in the petition filed under this section, the petitioner demonstrates:

(a) A difference between the actual square footage of the property as of the assessment date for the current tax year and the square footage of the property shown in the records of the assessor for the tax year.

(b) That new property, or new improvements to property, added to the tax roll in a prior tax year didn't exist as of the assessment date for that prior tax year or any subsequent tax year.

(3)(a) A correction made under subsection (2)(a) of this section must be proportional to the change in the real market value for the current tax year that is due to the correction of the square footage of the property.

(b) A correction made under subsection (2)(b) of this section:

(A) Must reflect, in a manner determined by the assessor, the removal of the new property or new improvements to property from the assessment and tax rolls as accepted by the assessor.

(B) May not be made to the extent that the assessor finds that the new property or new improvements to property existed on the assessment date of a prior tax year and the petition is best construed as demonstrating a difference in the nature, extent or value of the new property or new improvements to property.

(4) Notwithstanding subsection (3) of this section, a correction made under this section may not cause the maximum assessed value of the property to increase by more than three percent from the maximum assessed value of the property for the preceding tax year.

(5) A petition filed under this section must be on the form and contain the information prescribed by the Department of Revenue and must be filed with the county assessor on or before December 31 of the current tax year.

(6) A decision by the assessor pursuant to a petition filed under this section may be appealed under ORS 305.275.

[2001 c.764 §2; 2007 c.516 §3; 2009 c.443 §4; 2015 c.39 §1; 2015 c.97 §1a]

## Administrative rules for MAV and AV

### OAR 150-308-0100 Determining maximum assessed value when the property class is changed.

(1) The single act of changing the property classification, described in OAR 150-308-0310, to better reflect the highest and best use of the property, doesn't qualify as an exception to the 3 percent limitation on growth in the maximum assessed value (MAV), as described in ORS 308.146(1).

(2) Any exception value added to the base MAV after the change is made to the property class will be calculated by applying the changed property ratio of the current property class to the real market value of any qualified exception identified in ORS 308.146.

## OAR 150-308-0110 Reduction of maximum assessed value (MAV) for property destroyed or damaged by fire or act of God.

(1) "Fire or act of God" has the same meaning and restrictions as used in ORS 308.425 including the arson restriction of ORS 308.440.

(2) As used in ORS 308.146(5)(a), "reduction in real market value" means that the total real market value (RMV) after adjustment is less than it would otherwise have been, had the damage or destruction by fire or act of God not occurred.

(3) When a portion of property is destroyed or damaged by fire or act of God, use the following procedure to adjust MAV for the year in which the destruction or damage is reflected by a reduction in RMV.

**Note:** An example is incorporated into the steps with the following assumptions:

2008–09 MAV = $187,379.

2008–09 (01-01-08) total RMV equals $300,000.

2008–09 assessed value (AV) = $187,379.

09-01-08 the house is destroyed by fire. The house RMV for 01-01-08 was $180,000.

There is no market trending in this area.

**Step 1:** Multiply the prior year AV by 1.03. Compare the result to the prior year MAV to determine the larger amount. The larger amount becomes the current year MAV (unadjusted) as if the account hadn't changed, such as the larger of: Prior year AV x 1.03 or prior year MAV = current year MAV of unchanged account.

*Example: Larger of: $187,379 x 1.03 = $193,000 or $187,379. Current year MAV = $193,000.*

**Step 2:** Determine the prior year's RMV for the affected portion. The affected portion is that part of the property that was destroyed or damaged by fire or act of God. RMV of the loss is RMV of the affected portion.

*Example: RMV of affected portion equals $180,000.*

**Step 3:** Subtract RMV of the affected portion (Step 2) from the prior year total RMV to determine RMV of the unaffected portion, such as the prior year total RMV - RMV of the affected portion = RMV of the unaffected portion.

*Example: $300,000 - $180,000 = $120,000.*

**Step 4:** Divide RMV of the unaffected portion (Step 3) by the total prior year RMV to determine the percentage of unaffected property, such as RMV of the unaffected portion / total prior year RMV = percentage of unaffected property.

*Example: $120,000 ÷ $300,000 = 40%.*

**Step 5:** Multiply the unadjusted MAV (Step 1) by the percentage of unaffected property (Step 4) to determine MAV that has been adjusted to reflect the loss from fire or act of God (MAV attributable to the unaffected portion only), such as the unadjusted MAV x percentage of unaffected property = MAV adjusted to reflect the loss from fire or act of God.

*Example: $193,000 x 40% = $77,200.*

(5) As used in section (4), the "year" in which RMV is reduced due to fire or act of God can be either:

(a) The assessment year.

(b) The tax year if RMV is determined as of July 1 under ORS 308.146(6) or 308.428.

## OAR 150-308-0120 Reduction of maximum assessed value (MAV) when a building is demolished or removed.

(1) As used in ORS 308.146(8)(a), "reduction in real market value" means the total real market value (RMV) after adjustment is less than it would otherwise have been, had the demolishment or removal not occurred.

(2) As used in section (3) of this rule, the "year" in which RMV is reduced due to demolishment or removal is either:

(a) The assessment year, or

(b) The tax year, if RMV is determined as of July 1 under ORS 308.146(6).

(3) When a building is demolished or removed, use the following procedure to adjust the maximum assessed value (MAV) for the year in which the demolishment or removal is reflected by a reduction in RMV.

**Note:** *An example is incorporated into the steps with the following assumptions:*

2007–08 MAV = $87,379.

2007–08 (1-1-07) total RMV = $100,000.

2007–08 AV = $87,379.

There is no market trending in this area.

On September 1, 2007 the house is demolished. The RMV of the house for 1-1-07 was $75,000.

**Step 1:** Perform the 103 percent test as if the property hadn't changed. Multiply the prior year assessed value (AV) by 1.03. Compare the result to the prior year MAV to determine the larger amount. The larger amount becomes the current year MAV (unadjusted) as if the account hadn't changed.

Larger of: Prior year AV x 1.03 or prior year MAV = current year MAV of unchanged account.

*Example: Larger of: $87,379 x 1.03 = $90,000 or $87,379. Current year MAV = $90,000.*

**Step 2:** Determine the prior year RMV for the affected portion. The affected portion is the building or buildings that were demolished or removed. The RMV of the loss is RMV of the affected portion.

*Example: RMV of affected portion = $75,000.*

**Step 3:** Determine the prior year RMV for the unaffected portion. Subtract RMV of the affected portion (from Step 2) from the prior year total RMV to determine RMV of the unaffected portion.

Prior year total RMV – RMV of the affected portion = RMV of the unaffected portion.

*Example: $100,000 - $75,000 = $25,000.*

**Step 4:** Determine the percentage of the unaffected property. Divide RMV of the unaffected portion (from Step 3) by the total prior year RMV to determine the percentage of the unaffected property.

RMV of the unaffected portion ÷ total prior year RMV = percentage of the unaffected property.

*Example: $25,000 ÷ $100,000 = 25%.*

**Step 5:** Determine MAV that has been adjusted to reflect the loss. Multiply the unadjusted MAV (from Step 1) by the percentage of the unaffected property (from Step 4) to determine an MAV that has been adjusted to reflect the loss from demolishment or removal (MAV attributable to the unaffected portion only).

Unadjusted MAV x percentage of unaffected property = MAV adjusted to reflect the loss from demolishment or removal.

*Example: $90,000 x 25% = $22,500.*

### OAR 150-308-0130 Definitions

(1) For purposes of ORS 308.149:

(a) "New construction" means any new structure, building, addition, or improvement to the land, including site development.

(b) "Reconstruction" means to rebuild or replace an existing structure with one of comparable utility.

(c) "Major addition" means an addition that has a real market value over $10,000 and adds square footage to an existing structure.

(d) "Remodeling" means a type of renovation that changes the basic plan, form, or style of the property.

(e) "Renovation" means the process by which older structures or historic buildings are modernized, remodeled or restored.

(f) "Rehabilitation" means to restore to a former condition without changing the basic plan, form, or style of the structure.

(2)(a) For purposes of ORS 308.149 "general ongoing maintenance and repair" means activity that:

(A) Preserves the condition of existing improvements without significantly changing design or materials and achieves an average useful life that is typical of the type and quality so the property continues to perform and function efficiently;

(B) Doesn't create new structures, additions to existing real property improvements or replacement of real or personal property machinery and equipment;

(C) Doesn't affect a sufficient portion of the improvements to qualify as new construction, reconstruction, major additions, remodeling, renovation, or rehabilitation; and

(D) For income producing properties is part of a regularly scheduled maintenance program.

(b) Regardless of cost, the value of general ongoing maintenance and repairs may not be included as additions for the calculation of maximum assessed value.

### OAR 150-308-0140 Computation of changed property ratio for centrally assessed property.

The ratio of average maximum assessed value to average real market value, also known as the changed property ratio, shall be rounded to two decimal places for purposes of assessed value calculation. See OAR 150-308-0570.

### OAR 150-308-0150 Net capitalized additions.

(1) Definitions:

(a) For purposes of centrally-assessed property, the term "improvements" means changes in the value of property (as defined in 1997 OR Law Ch. 541, Sect. (7)(1)(b)) as the result of new construction, reconstruction, major additions, remodeling, renovation, rehabilitation or acquisition of property except on-going maintenance and repair. "Improvements" are measured by changes in Oregon net capitalized additions as defined below.

(b) The term "capitalized" refers to company expenditures for certain assets with a useful life typically extending beyond one year. These assets are aggregated in fixed asset accounts subject to annual depreciation charges, rather than repair and maintenance expense accounts. Examples include acquisitions of or changes to buildings, equipment, and personal property such as furniture and fixtures.

(c) The term "net additions" means the difference between the aggregate costs of Oregon assets in the prior and current years. For the 1997–98 implementation year, additions include the change from the 1995–96 base year. In all subsequent years, additions include the change from the prior year.

(d) The term "net capitalized additions" means "net additions" as calculated using capitalized costs in the company's annual reports.

**Examples:**

(A) For the current year, a new transformer is added for $100,000 and there are no retirements. The net addition is $100,000.

(B) A seven-year old transformer with a ten-year life expectancy (net book value of $30,000) is retired from service and replaced by a new transformer (cost $100,000). The net addition is $70,000, reflecting the additional 7 years' life expectancy. (The remaining $30,000 is considered maintenance).

(C) Same as (B) above, except that the new transformer is added to the existing number of transformers. No other transformers are retired; however, $30,000 of other capitalized equipment is retired. The net addition is still $70,000.

Typical fixed asset accounting procedures provide for annual removal of retired assets. Using successive years' account totals to determine maximum assessed value will result in a netting of retirements against true improvements.

(D) Same as (B) above, except that no new transformer is added. The net capitalized addition is $0, since there have been no improvements.

(E) If the change in Oregon assets can only be determined by an allocation of system additions, then these changes shall be allocated to Oregon in the same manner as other company property.

(F) In the case of mobile property, additions shall also include the change in presence in the state as measured by the change in allocation factors.

(e) The term "ongoing maintenance and repair" means expenditures which the company has elected to record as an expense in repair and maintenance accounts rather than aggregate in a fixed asset account as described (1)(b). Items may be expensed because the useful life of the expenditures doesn't extend over one year, or because their associated dollar amounts are too small to qualify as a capital asset under company capitalization threshold guidelines. Typical examples include spare parts and maintenance supplies.

**Example:**

A private car company maintains a capitalization threshold for its equipment accounts of $2000. The company frequently makes purchases of spare parts for its repair shops. One of these was a bulk purchase of miscellaneous car bearings for $1000, and the company expensed this item. The company also decided to upgrade half of its fleet with a $20,000 investment in specialized bearings which would allow the cars to travel at significantly higher speeds. This investment was capitalized. The expenditure of $1000 would be considered "ongoing maintenance and repair." The expenditure of $20,000 would be considered an "improvement." The fact that each expenditure is for bearings isn't controlling.

(2) Application of Definitions:

(a) In the case of companies which don't keep fixed asset accounts, the department may make a reasonable analysis of reported assets using capitalization practices under accepted accounting principles.

(b) In cases where the Department of Revenue annual company reporting is based on aggregate account balances, the department won't undertake an item-by-item analysis of the amount and purpose of each expenditure within statutory appraisal timelines. Expensed items shall be considered "ongoing maintenance and repair" and net capitalized additions shall be considered "improvements." The department may undertake an item-by-item analysis when the appraisal is challenged by the taxpayer in litigation or otherwise.

(c) Typical accounting policies include a "capitalization threshold" of a certain dollar amount for different types of expenditures. The department recognizes that certain assets which qualify as improvements under the law may be expensed as a matter of company policy. In these cases, the department shall presume that the minor construction thresholds of $10,000 and $25,000 are addressed by this accounting convention. The department may make a reasonable adjustment when the application of this approach results in a material error.

(3) For purposes of computing maximum assessed value for centrally-assessed property, the aggregate Oregon net capitalized additions shall be adjusted to reflect their real market value as a result of wear, aging, and the impact of market conditions since placement in service. The net capitalized additions shall then be multiplied by the statewide maximum assessed value to real market value ratio for centrally-assessed property (always 1.00 or less). The maximum assessed value shall be compared to the real market value, and the lesser of the two shall be placed on the roll as the company's assessed value.

### OAR 150-308-0160 Minor construction.

(1) Definition: "Minor construction" is an improvement to real property that results in an addition to real market value (RMV), but doesn't qualify as an addition to maximum assessed value (MAV) due to a value threshold. The value threshold is an RMV of over $10,000 in any one assessment year, or over $25,000 for all cumulative additions made over five assessment years.

(2) Minor construction doesn't include general ongoing maintenance and repairs.

(3) When testing the over $25,000 threshold, use the cumulative RMV of all minor and major construction over a period not to exceed five consecutive assessment years.

(a) Minor and major construction values aren't market trended.

(b) Values for retirements aren't considered in the threshold test.

(c) Values for minor construction items that are removed or destroyed prior to being an adjustment to MAV are subtracted from the minor construction cumulative RMV.

(4) Once the over $25,000 threshold is met, use the following steps to calculate MAV adjustment:

(a) Use minor construction values that aren't market trended.

(b) Make adjustments for any retirements from the prior assessment year. The net value of additions and retirements can't go below zero.

(c) Apply the changed property ratio (CPR) from the year the cumulative RMV becomes an addition to MAV.

(d) Reset the cumulative RMV for minor construction to zero and restart the five-year period.

(5) For implementation of the five-year period, the first year is 1997–98 reflecting minor construction added after July 1, 1995, and on or before July 1, 1997.

The following examples demonstrate the over $25,000 threshold. RMVs in the following examples aren't market trended and/or depreciated.

**Example 1—Over $25,000 not met**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,000 | $8,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | None | $8,000 | No change. |
| 3 | $7,000 | $15,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 4 | None | $15,000 | No change. |
| 5 | $5,000 | $20,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |

**Example 2—Over $25,000 not met, prior years drop off**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,000 | $8,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | None | $8,000 | No change. |
| 3 | $5,000 | $13,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 4 | None | $13,000 | No change. |
| 5 | $7,000 | $20,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 6 | $11,000 | $23,000 | Year 6 qualifies individually as is over $10,000. Prior years still don’t qualify, as 5 year cumulative total is under $25,001. (Remember, year 1 has dropped off the 5 year cumulation. $11,000 x CPR = adjustment to MAV.) |

**Example 3—Cumulative RMV reset**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,500 | $8,500 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | $100,000 | $108,500 | Year 2 qualifies individually as RMV is over $10,000. Year 1 qualifies as 5 year cumulative total is over $25,000. $108,500 x CPR = adjustment to MAV. Cumulative total and five year period reset for the next year. |
| 1 | $9,500 | $9,500 | Cumulative total and five year period have reset. Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |

**Example 4—Cumulative RMV reset**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,000 | $8,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | $5,000 | $13,000 | Doesn’t qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 3 | $15,000 | $28,000 | Year 3 qualifies individually as RMV is over $10,000. Years 1 and 2 qualify as 5 year cumulative total is over $25,000. $28,000 x CPR = adjustment to MAV. Cumulative total and five year period reset for the next year. |
| 1 | None | $0 | Cumulative total and five year period have reset. |

**Example 5—Individual year and cumulative year adjustments**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $5,000 | $5,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | None | $5,000 | No change. |
| 3 | $15,000 | $20,000 | Year 3 qualifies individually as RMV is over $10,000. Year 1 doesn't qualify as cumulative RMV is under $25,001. $15,000 x CPR = adjustment to MAV. |
| 4 | $7,000 | $27,000 | Years 4 and 1 qualify as cumulative RMV is over $25,000. $12,000 x CPR = adjustment to MAV. Cumulative total and five year period reset for the next year. |
| 1 | None | $0 | Cumulative total and five year period have reset. |

**Example 6—Removal of destroyed minor construction**

| Year | New improvement value | Cumulative total | Comment |
|---|---|---|---|
| 1 | $8,000 | $8,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 2 | $5,000 | $13,000 | Doesn't qualify as an adjustment to MAV. Individual year RMV is under $10,001 and cumulative RMV is under $25,001. |
| 3 | -$8,000 | $5,000 | Improvement added in year 1 is destroyed and is removed from the cumulative RMV pool. |

## OAR 150-308-0170 Establishing a changed property ratio.

(1) The assessor must establish a CPR for property classes 0 through 8 each assessment year. For determining the ratio of the average maximum assessed value over the average real market value, only the first digit of the property class needs to be recognized. These ratios must be rounded to three decimals.

(a) Property classes may be combined to arrive at a ratio. The resulting ratio would become CPR for each property class used to calculate the ratio.

(b) For specially assessed properties , only the non-specially assessed portion of value will be used to determine a ratio. For specially assessed properties such as farm or timber, the assessor may use either of the following methods to arrive at a CPR:

(A) The non-specially assessed portion of the unchanged 5-x-x or 6-x-x property classes may be used to create CPR for those classes; or,

(B) The 4-x-x property class values may be combined with the non-specially assessed values from the 5-x-x and/or 6-x-x property classes to calculate the ratio. The resulting ratio would become CPR for each property class used to calculate the ratio.

(2) Residential property class (1-x-x) includes all manufactured structures and floating homes not assigned to other property classes.

(3) For locally and centrally assessed property, the value of CPR may not be greater than (1.000).

## OAR 150-308-0180 Definition of affected.

"Affected property" means property that is subject to one or more of the following events: partitioned or subdivided; added to the account as omitted property; rezoned and used consistent with the rezoning; disqualified from a special assessment, exemption, or partial exemption.

## OAR 150-308-0190 Subdivided and partitioned property MAV.

For purposes of calculating maximum assessed value when a property is subdivided or partitioned, the portion of the property that is "affected" includes:

(1) The entire land that was subdivided or partitioned into smaller lots or parcels, if any.

(2) The improvements if one or more of the following apply:

(a) The act of subdividing or partitioning the land results in the apportionment of a single improvement (building or structure) to more than one tax lot.

*Example 1: A lot improved with a duplex is partitioned such that the duplex is split into two single-family residences.*

(b) The act of subdividing or partitioning the land changes the market's perception of the value of the improvements.

*Example 2: A partition includes a vacant warehouse that was previously part of a large industrial complex. Prior to the partition, the market perceived the warehouse as unnecessary to the industrial complex and of little or no value. After the partition, the warehouse is a stand-alone improvement no longer associated with the industrial complex. The market now perceives the warehouse as a property that can be used for many different purposes with considerable value. By contrast, there is no change in market perception regarding the remaining improvements in the industrial complex.*

(c) The improvements are divided into separate units of property.

*Example 3: The legal subdivision of an apartment building into condominium units.*

## OAR 150-308-0200 Rezoned property—calculating maximum assessed value (MAV).

(1) For the purposes of determining MAV under ORS 308.142 to 308.166 and this rule, the following definitions apply

(a) "Primary use" means an activity or combination of activities of chief importance on the site and is one of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use, such as mixed use buildings with commercial use on the ground floor and residential use on upper floors.

(b) "Accessory use" means a use or activity that is incidental and subordinate to the primary use of the property. A use designated as "accessory "or "auxiliary" by an applicable zoning code is presumed to be accessory unless that designation is clearly inconsistent with the ordinary legal meaning of "accessory," as determined by relevant criteria such as the relative size of the area used and the impact of the use on the surrounding neighborhood. Accessory uses may include, but are not limited to:

(A) In residential zones, recreational activities, hobbies, home businesses, or pet raising;

(B) In commercial office zones, cafeterias, health facilities, or other amenities primarily for employees;

(C) In commercial retail zones, offices or storage of goods;

(D) In industrial zones, storage, rail spurs, lead lines, or docks;

(E) Parking in any zone, unless commercial parking is designated or allowed as a primary use, such as for parking structures; and

(F) Accessory structures such as accessory dwelling units limited in size, garages, car ports, decks, fences, and storage sheds.

(c) "Type of use" means one of the uses defined in OAR 150-308-0310.

(d) "Floor area ratio" means the relationship of the total allowed area of above ground floors of a building to the total area of the parcel of land on which it is sited.

(e) "Site coverage ratio" means the relationship of the total area covered by the footprint of a building to the total area of the parcel of land on which it is sited.

(f) "Rezoned" means on or after July 1, 1995, the governmental body that regulates zoning:

(A) Made any change in the zone designation, including but not limited to an overlay, plan district, or floating zone designation, of the property;

(B) Made a change in one or more of the permitted primary types of use of the property; or

(C) Made a change in;

(i) The number of dwelling units, other than accessory dwelling units, allowed per acre, or other legal limitation on the number of dwelling units, other than accessory dwelling units, in a given area;

(ii) The allowed floor area ratio; or

(iii) The allowed site coverage ratio.

Example 1: The zone designation on a zoning map is changed from light industrial to commercial. Property has been rezoned.

Example 2: Prior to July 1, 1995, a city's zoning ordinances allowed a small degree of office space, ordinarily a commercial use, in an industrial zone as accessory to industrial uses. No other commercial uses were permitted in that zone. The city later amends the zoning ordinances to allow office space as a primary use of property in those industrial zones. Because the zone now permits both commercial and industrial uses as primary uses, the permitted primary types of use of the property have changed. Property has been rezoned.

Example 3: Any amendment is made to the zoning ordinances increasing the number of dwelling units, other than accessory dwelling units, allowed per acre. Property has been rezoned.

(D) "Rezoned" doesn't include:

(i) Changes in the authorized uses of the property that were imposed before July 1, 1995, by the governmental body that regulates zoning of the property;

(ii) Satisfaction of conditions or restrictions on the authorized uses of the property that were imposed before July 1, 1995, by the governmental body that regulates zoning of the property;

(iii) Changes in the authorized types of use of the property imposed by a governmental body other than the government that regulates zoning of the property; or

(iv) Changes in allowed accessory uses.

Example 4: The ordinances governing single-family residential zones are amended to allow a single accessory structure, designated as an "accessory dwelling unit." The accessory dwelling unit is limited in size either to a maximum square footage or in proportion to the primary dwelling. The zoning amendment changes the allowed accessory uses of property. Property has not been rezoned.

Example 5: The ordinances governing single-family residential zones are amended to allow the operation of a home business in a residential zone. The amendment designates the home business as an "accessory use" and imposes limitations on the business to preserve the residential character of the zone in which it is conducted, such as limitations on the type of business conducted or the number of employees allowed. The business activity is incidental to the primary use of the home. Property has not been rezoned.

Example 6: An amendment is made to the zoning ordinance to allow high-technology manufacturing in a light industrial zone. The zone designation has not changed. Light industrial use and the new use of high-technology manufacturing are both within the same type of use, which is industrial. Property has not been rezoned.

Example 7: An amendment is made to the zoning ordinance to allow a beauty school in a commercial office zone. The zone designation has not changed. Commercial office use and the new use of a beauty school are both within the same type of use, which is commercial. Property has not been rezoned.

(g) "Used consistently with the rezoning" means the property is put to a newly permitted use under the rezoning. It does not include a use that was permitted under the prior zoning. It often includes, but does not require, a physical change to the property.

Example 8: Single-family dwellings are a permitted use under multi-family zoning. If a vacant parcel is rezoned from single- to multi-family, and a new single-family house is later constructed, the new use is not consistent with the rezoning because the use was allowed prior to the rezoning. The exception for property rezoned and used consistently with the rezoning has not occurred.

Example 9: A house in a residential zone is used as a commercial office. The residential zone is changed to a commercial zone in a later year. The property is used consistently with the rezoning because the commercial use was previously a nonconforming use, and is now a newly permitted use under the rezoning. The exception for property rezoned and used consistently with the rezoning has occurred.

Example 10: A city decides to revise their zoning code, and the zone designation for a commercial zone on a map is changed from "C5" to "GC." However, there is no change to the permitted uses. Although property has been rezoned, no property will be "used consistently with the new zoning" because all of the uses were permitted under the prior zoning.

(2) For the purposes of calculating maximum assessed value when a property is rezoned and used consistently with the rezoning, the portion of the property that is "affected" includes:

(a) Improvements that are converted to the newly allowed use; and

(b) All land that supports a newly allowed use, including, but not limited to:

(A) Land under newly constructed or converted improvements put to the newly allowed use;

(B) Ingress and egress related to the newly allowed use;

(C) Access to utilities;

(D) Landscaping;

(E) Yard areas; and

(F) Parking.

Example 11: A house in a neighborhood recently rezoned from residential to commercial is converted into a commercial office. The house is used consistently with the new zone and is affected property. All of the land is affected property, unless a portion is clearly distinguishable as “excess” land: land unrelated to the new commercial use.

(3) The assessor will calculate the MAV for the property tax account for the current assessment year under this subsection, if:

(a) The entire property has been rezoned;

(b) The entire property is used consistently with the rezoning; and

(c) Either (a) or (b), or both, took place after January 1 of the preceding assessment year and on or before January 1 of the current assessment year.

Example 12: In 1998, the zoning ordinance was amended to permit additional primary types of use in the zone. The designation on the zoning map didn’t change. Last year the entire property was developed for one of the primary types of uses first permitted under the 1998 amendment.

Prior Year Values: Real Market Value (RMV) = $250,000; MAV = $97,088; Assessed Value (AV) = $97,088.

Current year RMV of the affected portion = $750,000.

Current year changed property ratio (CPR) for this property type = 0.80.

Because the rezone affects the entire property, multiply the current year RMV of the entire property by CPR. This is MAV for the entire property.

$750,000 x 0.80 = $600,000 (Current year MAV for the entire property.)

(4) The assessor will calculate the MAV for the property tax account for the current assessment year under this subsection, if:

(a) The property or a portion of the property has been rezoned;

(b) A portion of the property is used consistently with the rezoning; and

(c) Either (a) or (b), or both, took place after January 1 of the preceding assessment year and on or before January 1 of the current assessment year.

Example 13: Property was rezoned from residential to commercial two years ago. A one and a half acre lot has been developed into a bicycle sales and service shop. The shop, including all parking and landscaping, occupies half of an acre. The rest of the land remains undeveloped.

Prior year values: RMV = $150,000; MAV $97,088; AV = $97,088.

Prior year RMV of unaffected portion = $100,000.

Current year RMV of affected portion = $700,000.

Current year CPR for this property type = 0.80.

**Step 1:** Calculate the current year MAV as if the account hadn't changed.

Multiply the prior year AV by 1.03. Compare the result to the prior year MAV to determine the larger amount. This becomes the current year MAV as if the account hadn't changed.

Larger of: Prior year AV x 1.03 compared to prior year MAV = current year MAV of unchanged account.

Prior year AV x 1.03 = 97,088 x 1.03 = $100,000

Prior year MAV = $97,088

Current year MAV of the unchanged account = $100,000

**Step 2:** Calculate the percentage of the unaffected portion.

Determine the prior year's RMV for the unaffected portion of the property. Divide that value by the prior year RMV for the whole account. This is the percentage of the account that is unaffected by the change to the property.

Prior year RMV (unaffected portion) divided by prior year RMV (total account) = percentage of the property that is unaffected.

$100,000 = prior year RMV for the unaffected portion.

$150,000 = prior year RMV for the total account.

$100,000 ÷ $150,000 = 66.7% (Percentage of the account that is unaffected.)

**Step 3:** Calculate the current year MAV for the unaffected portion.

Multiply the current year MAV (Step 1) by the percentage of the unaffected portion (Step 2). This is the current year MAV for the unaffected portion.

$100,000 x 66.7% = $66,700 (Current year MAV for the unaffected portion.)

**Step 4:** Calculate MAV for the affected portion.

Multiply the current RMV of the affected portion by the CPR. This is MAV for the affected portion.

$700,000 x 0.80 = $560,000 (Current year MAV for the affected portion.)

**Step 5:** Calculate MAV for the account.

Add MAV for the unaffected portion (step 3) and MAV for the affected portion (step 4) to get MAV for the account.

$66,700 + $560,000 = $626,700 (Current MAV for the account.)

## OAR 150-308-0210 Omitted property—allocating maximum assessed value (MAV).

(1) When omitted property is added to the property tax account after January 1 preceding the current assessment year and before January 1 of the current assessment year, only the omitted property portion is considered affected. The existing property is the unaffected portion. The intent is to correct the tax roll for current and prior years as if the omitted property had been a regular part of those tax rolls.

(2) To correct the first year's Assessed Value (AV) when the omitted property is added to the roll:

(a) Multiply the real market value (RMV) of the omitted property for the first year it should have been added to the roll by that year's appropriate changed property ratio (CPR) to determine MAV for the omitted property.

(b) Add RMV and MAV of the omitted portion to the existing RMV and MAV to get a corrected RMV and MAV for the account.

(c) The lesser of the corrected RMV or MAV is the AV that should have been on the roll had the property been discovered timely.

*Example 1: Property was built in 2003 and should have been added to the 2004–05 tax roll. The assessor discovers the property in December 2004 and adds it to the 2004–05 tax roll.*

| Tax year | 2004–05 |
|---|---|
| | |
| RMV | 115,763 |
| MAV | 94,500 |
| AV | 94,500 |
| | |
| Omitted RMV | 21,000 |
| CPR | 0.83 |
| MAV | 17,430 |
| | |
| Corrected RMV | 136,763 |
| Corrected MAV | 111,930 |
| Corrected AV | 111,930 |

(3) To correct the AV for subsequent years that omitted property should be added to the roll:

(a) Add the omitted property's trended or recalculated RMV to the property's existing RMV to get a corrected RMV for the account.

(b) Multiply the prior year's corrected AV by 1.03 and compare to the prior year's corrected MAV. The greater of the two will be the corrected MAV for the account.

(c) The lesser of the corrected RMV or MAV is the account's AV.

*Example 2: Property was built in 2003 and should have been added to the 2004–05 tax roll. The assessor discovers the property in December 2008, and adds it to the 2004–05 through 2008–09 tax rolls. RMV trending is 5 percent per year. Table not included.*

| Year | 04–05 | 05–06 | 06–07 | 07–08 | 08–09 |
|---|---|---|---|---|---|
| Original RMV | 115,763 | 121,551 | 127,629 | 134,010 | 140,711 |
| Corrected RMV | 136,763 | 143,601 | 150,781 | 158,320 | 166,236 |
| | | | | | |
| Original MAV | 94,500 | 97,335 | 100,255 | 103,262 | 106,359 |
| Corrected MAV | 111,930 | 115,287 | 118,745 | 122,307 | 125,976 |
| | | | | | |
| Original AV | 94,500 | 97,335 | 100,255 | 103,262 | 106,359 |
| Corrected AV | 111,930 | 115,287 | 118,745 | 122,307 | 125,976 |
| RMV of omitted property | 21,000 | | | | |
| CPR | 0.83 | | | | |
| MAV | 17,430 | | | | |
| Trend | | 5% | 5% | 5% | 5% |

## OAR 150-308-0220 Exemption, partial exemption or special assessment disqualification—allocating MAV.

When an exempt, partially exempt or specially assessed property is disqualified after January 1 of the assessment year preceding the current assessment year and before January 1 of the current assessment year, a new MAV for the account must be calculated. The new MAV total will be MAV of any unchanged portion and the new MAV of any disqualified portion. The new MAV of the disqualified portion is RMV multiplied by the appropriate changed ratio.

## OAR 150-308-0230 Calculation of maximum assessed value (MAV) for lot line adjustments.

(1) For purposes of calculating MAV when properties are subject to a lot line adjustment, the portion of the property that is "affected" includes:

(a) All the land comprising the properties subject to the lot line adjustment.

(b) Buildings or structures when a new lot line divides the building or structure.

**Note:** An example of how to perform the mathematics of this rule is incorporated throughout the rule based upon the following information:

The zoning for both tax lot 100 and tax lot 200 is RR-5 (Rural Residential 5-acre minimum) requiring a minimum of five acres before a dwelling may be built.

Before the lot line adjustment, tax lot 100 was a vacant 4-acre lot that was unbuildable due to its size. Undersized lots sell for $7,000 per acre, making the real market value (RMV) of this unbuildable tax lot $28,000. The associated MAV for this tax lot was $22,400. Tax lot 200 is a vacant 8-acre lot that is buildable under the current zoning. Buildable lots sell for $15,000 per acre, making RMV of this tax lot $120,000. The associated MAV for this tax lot is $96,000.

After the lot line adjustment both lots are 6 acres in size and are buildable under the current zoning. Because buildable lots sell for $15,000 per acre, it makes RMV of each tax lot $90,000.

The changed property ratio (CPR) to be used in this example is 0.80.

(2) Calculate the total MAV of the affected portion before the lot line adjustment as follows:

(a) For each account subject to the lot line adjustment:

(A) Divide the affected portion's RMV by the total RMV of the account.

Tax Lot (TL) 100: $28,000 ÷ $28,000 = 1.00

Tax Lot (TL) 200: $120,000 ÷ $120,000 = 1.00

(B) Multiply the result of (A) by the property's total MAV to determine MAV attributable to the affected portion.

TL 100: 1.00 x $22,400 = $22,400

TL 200: 1.00 x $96,000 = $96,000

(b) Add MAV attributable to the affected portion for each account to determine the total MAV of the affected portion before the lot line adjustment.

$22,400 + $96,000 = $118,400

(3) Calculate the total MAV for the affected portion after the lot line adjustment as follows:

(a) For each account subject to the lot line adjustment, multiply the new RMV of the affected portion by the appropriate CPR to determine MAV for the affected portion as follows.

TL 100: $90,000 x 0.80 = $72,000

TL 200: $90,000 x 0.80 = $72,000

(b) Add MAV for the affected portion of each account to determine the total MAV of the affected portion after the lot line adjustment.

$72,000 + $72,000 = $144,000

(4) Compare the total MAV of the affected portion before the lot line adjustment to the total MAV of the affected portion after the lot line adjustment as follows:

Before = $118,400. After = $144,000

(a) If the total MAV of the affected portion after the lot line adjustment is equal to or lesser than the total MAV of the affected portion before the lot line adjustment: Add MAV for the affected portion of each account to any unaffected MAV for that account to determine the total MAV for each account.

The example doesn't fit this description. Continue to paragraph (b).

(b) If the total MAV of the affected portion after the lot line adjustment is greater than the total MAV of the affected portion before the lot line adjustment, MAV for the affected portion of each account must be proportionally reduced.

The example fits this description. Proceed to paragraph (A).

(A) Divide the total MAV of the affected portion before the lot line adjustment by the total MAV of the affected portion after the lot line adjustment to determine the proportionate reduction.

$118,400 ÷ $144,000 = 0.822222

(B) Multiply the proportionate reduction by MAV of the affected portion after the lot line adjustment for each account.

TL 100: 0.822222 x $72,000 = $59,200

TL 200: 0.822222 x $72,000 = $59,200

(C) Add MAV of the affected portion after the proportionate reduction in (B) to any unaffected MAV for that account to determine the total MAV for each account.

TL 100: $59,200 + $0 = $59,200

TL 200: $59,200 + $0 = $59,200

## OAR 150-308-1090 Calculation of MSAV when SAV soil classification is changed.

(1) Definitions:

(a) "MSAV" means maximum assessed value for property subject to special assessment (maximum specially assessed value).

(b) "SAV" means specially assessed value.

(c) "MSAV tables" are the tables that provide a maximum assessed value per acre equal to 103 percent of the maximum assessed value per acre from the pervious assessment year. The county assessor is required to develop these tables for each assessment year under ORS 308A.107(3)(b).

(2) When an SAV soil classification is changed, MSAV must use corresponding soil classification values from MSAV Table if:

(a) There is a physical change such as, but not limited to:

(A) Irrigation is added

(B) Irrigation is removed.

(C) Soil movement caused by slides, erosion, flooding, wind, etc.

(D) Soil is depleted indefinitely due to extended over use of crop.

(E) Soil is enhanced due to extensive additives to the soil.

(F) Trees are removed so that cultivation can take place and previous classification was based in part on the inability to cultivate.

(G) Rocks and other debris are removed to enhance cultivation.

(H) Site improvements are added including but not limited to drainage system, fill, contouring, leveling, and diking.

(b) There are specific non-physical changes such as:

(A) Comprehensive soil reclassification due to a new published government agency soil survey.

(B) Land class acreage adjustments to implement a GIS mapping system.

(C) The assessor reasonably determines that a property's land is no longer in the same land class that it was in during the prior assessment year. The assessor's determination that the land is no longer in the same land class can't be arbitrary, but must be based on preexisting criteria for the respective land classes. The preexisting criteria for the respective land classes must be clear, objective, consistently applied and uniform within the county. Land classification changes must be the result of the reasonable application of the preexisting criteria to the actual condition of the land.

(3) The assessor must calculate the corresponding MSAV for new SAV soil classes using the following procedure:

(a) Divide the average MSAV for all soil types by the average SAV for all soil types to derive a changed property ratio.

(b) Multiply SAV value of the new soil type by the changed property ratio to obtain MSAV for the new soil class.

### OAR 150-308-1500 Additional Tax Calculation and When to Impose Additional Tax

(1) For the purpose of this rule "lookback period" means the period established by ORS 308A.703(3).

(2) Effective August 15, 2018, to calculate the maximum assessed value (MAV) for the computation of the additional tax, multiply the real market value (RMV) of the special assessed land being disqualified for the earliest year in the lookback period by that year's appropriate change property ratio (CPR) for the classification of the disqualified property as if it would not have been specially assessed. For each subsequent year, calculate the MAV as if the property had not been specially assessed per ORS 308.146.

(3) Under certain circumstances, farm use special assessment may be disqualified after July 1 and advance collection of additional taxes made. Disqualifications made under these circumstances are for the next tax year, therefore, the property will remain at its value for farm use on the tax roll until the following July 1. The collection of the additional tax is provided for in section (4). The specific circumstances for this type of disqualification are as follows:

(a) For non-exclusive farm use (Non-EFU) zoned farmland:

(A) Subdivision plats under Chapter 92;

(B) At the owner's request.

(b) For exclusive farm use (EFU) zoned farmland, a non-farm dwelling under ORS 215.236.

(4)(a) Collection of Additional Tax: Advance collections of the additional tax made under the provisions of ORS 311.370 are entitled to the discount allowed by ORS 311.505 if the assessor can compute the exact amount of the additional tax at the time the taxes are paid. If the assessor is unable to determine the exact amount due, the discount is allowed when final settlement is made at the time taxes are regularly due, as provided by ORS 311.370.

(b) Any additional tax entered on the tax roll becomes part of the tax extended against the property and is collected in the same manner as other real property taxes. ORS 311.505 governs whether a discount is allowed or interest is charged.

(5) Distribution of Additional Tax: The total amount of the additional tax added to the tax roll must be apportioned between the taxing districts in which the property is located.

(a) The apportionment must be based on the ratio that the billing tax rate of each district bears to the total billing tax rates on the property, as shown on the tax roll on which the additional tax is entered.

(b) In preparing the certificate of the tax roll under ORS 311.105, the assessor must add the additional tax due to each taxing district to the total amount to be raised for each district under ORS 311.105. The amount of additional tax due to each taxing district must be included in the percentage distribution schedule computed by the tax collector under ORS 311.390.

## OAR 150-311-0240 Procedure to correct MAV when square footage error exists.

(1) For purposes of this rule, "Current RMV", as used in subsection (4)(b), is defined as RMV for the tax year of the petition. For example, a petition submitted in August 2016 will use the roll values for the 2016–17 tax year to calculate the adjustment.

(2) To correct the maximum assessed value (MAV) of a property for an error in square footage, the assessor must receive a petition from either the current owner of the property or other person obligated to pay taxes imposed on the property. The petition must be filed with the county assessor on or before December 31 of the current tax year on a form prescribed by the department.

(3) The correction to MAV by the assessor must be in proportion to the correction to RMV due to the error in square footage.

(4) The proportion of error and resulting MAV are calculated as follows by the assessor:

(a) For properties described by a single component (for example, land only), use the following procedure to adjust MAV.

**Note:** *An example is incorporated into the steps with the following assumptions:*

The assessor's records show that a parcel has 435,600 sq. ft. (10 acres), when, in fact, it only has 392,040 sq. ft. (9 acres).

The existing RMV is $80,000.

The corrected RMV is $75,000.

The existing MAV is $50,000.

**Step 1:** Divide the correct RMV by the RMV as currently shown in the assessment records to determine the proportional RMV correction.

*Example: $75,000 ÷ $80,000 = 0.9375*

**Step 2:** Multiply the proportional RMV correction (Step 1) by the existing MAV for the property to determine the corrected MAV for the property.

*Example: 0.9375 x $50,000 = $46,875, which is the corrected MAV for the property.*

(b) For properties described by multiple components (for example, land and buildings, or more than one building or structure, or buildings and machinery), use the following procedure to adjust MAV.

**Note:** An example is incorporated into the steps with the following assumptions:

A property consists of a 3-acre land parcel and two buildings.

Building 1 was incorrectly valued as having 2,000 square feet, when in fact it has only 1,500 square feet.

Current Real Market Value (RMV) of the building with the error is $80,000.

Corrected RMV of the building with the error is $60,000.

The square footage on the land and other building is correct.

The property's total RMV is $400,000.

The property's total MAV is $300,000.

**Step 1:** Determine which component has the square footage error.

*Example: Building 1 is the component with the error in square footage.*

**Step 2:** Determine the portion of the property's total RMV that is contributed by the component with the square footage error.

*Example: Building 1 RMV is given as $80,000.*

**Step 3:** Calculate the ratio of RMV of the component with the error to RMV of the entire property.

*Example: Building 1 RMV ($80,000) divided by Total RMV ($400,000) = 0.20.*

**Step 4:** Multiply the property's total MAV by the ratio obtained from Step 3 to determine MAV attributable to the component with the error in square footage.

*Example: $300,000 x 0.20 = $60,000*

**Step 5:** Subtract MAV attributable to the component with the error in square footage (Step 4) from the property's total MAV to determine the base MAV.

*Example: $300,000 - $60,000 = $240,000*

**Step 6:** Divide the correct RMV of the component by the RMV of the component as currently shown in the assessment records to determine the proportional RMV correction ratio.

*Example: $60,000 ÷ $80,000 = 0.75*

**Step 7:** Multiply the proportional square footage error ratio (Step 6) by MAV attributable to the component with the square footage error (Step 4) to determine the corrected MAV attributable to the component.

*Example: 0.75 x $60,000 = $45,000, which is the corrected MAV attributable to the component.*

**Step 8:** Add the corrected MAV attributable to the component (Step 7) to the base MAV (Step 5) to determine the corrected MAV for the entire property.

*Example: $45,000 + $240,000 = $285,000, which is the corrected MAV for the property.*

(5) For a building that is valued by summing the individual value contributions from distinct portions of that building, the particular building portion affected by the square footage error may be considered as a separate component such as in (4)(b) above when making the correction to MAV. Examples of this type of building include but aren't limited to a warehouse with attached offices or a house with an attached garage.

(6) Notwithstanding that a property's MAV has been corrected due to a square footage error, the corrected MAV remains subject to adjustments required by ORS 308.146 to 308.166.

(7) Roll corrections pursuant to ORS 311.234 are to be made using the procedures in 311.205.

Supreme Court of Oregon,
En Banc.
FLAVORLAND FOODS, now doing business as New Season Foods, Inc., Respondent,
v.
WASHINGTON COUNTY ASSESSOR, a political subdivision of the State of Oregon, and Department of Revenue, State of Oregon, Appellants.

(OTC 4393; SC S47940).
Argued and Submitted Jan. 10, 2002.
Decided Sept. 19, 2002.

Taxpayer appealed decision of a county board of property tax appeals that the constitution as amended by Ballot Measure 50 did not separately cap the assessed value of land and improvements. The Tax Court entered summary judgment in favor of taxpayer. County assessor and Department of Revenue appealed. The Supreme Court, Leeson, J., held that the phrase "each unit of property in this state" in constitution which capped maximum assessed value of each unit of property in this state for ad valorem property tax purposes referred to all property under one property tax account, including land and improvements, rather than land and improvements separately.

Reversed and remanded.

West Headnotes

**[1] Taxation 371 2161**

371 Taxation
371III Property Taxes
371III(B) Laws and Regulation
371III(B)7 Limitation of Rate or Amount
371k2161 k. In General. Most Cited Cases
(Formerly 371k51)

The phrase "each unit of property in this state" in Ballot Measure 50 which amended constitution to cap maximum assessed value of each unit of property in this state for ad valorem property tax purposes referred to all property under one property tax account, including land and improvements, rather than land and improvements separately, and, thus, the taxpayer's land and improvements did not have separate maximum assessed values. Const. Art. 11, § 11(1)(a).

**[2] Constitutional Law 92 584**

92 Constitutional Law

92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k584 k. Intent in General. Most Cited Cases
(Formerly 92k13)

When courts interpret constitutional provisions added by initiative or referendum, they attempt to discern the intent of the voters; the people's understanding and intended meaning of the provision is critical to courts' analysis.

**[3] Constitutional Law 92 591**

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k590 Meaning of Language in General
92k591 k. In General. Most Cited Cases
(Formerly 92k14)

The best evidence of the voters' intent is the text of the initiated or referred constitutional amendment.

**[4] Constitutional Law 92 593**

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k590 Meaning of Language in General
92k593 k. Existence of Ambiguity. Most Cited Cases
(Formerly 92k13)

**Constitutional Law 92 601**

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k595 Intrinsic Aids to Construction
92k601 k. Context and Related Clauses. Most Cited Cases
(Formerly 92k13)

If the voters' intent is clear after consideration of text and context of a constitutional amendment added by initiative or referendum, then the court's inquiry is over.

**[5] Constitutional Law 92 593**

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k590 Meaning of Language in General

92k593 k. Existence of Ambiguity. Most Cited Cases
(Formerly 92k14)

Courts will not lightly conclude that the text of a constitutional amendment added by initiative or referendum is so clear that further inquiry is unnecessary.

**[6] Constitutional Law 92 ⚷604**

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k604 k. History in General. Most Cited Cases
(Formerly 92k16)

If any doubt remains about the meaning of an initiated or referred constitutional amendment, courts will consider the history of the provision in an effort to resolve the matter.

**[7] Constitutional Law 92 ⚷592**

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k590 Meaning of Language in General
92k592 k. Plain, Ordinary, or Common Meaning. Most Cited Cases
(Formerly 92k14)

When interpreting the text and context of a constitutional amendment adopted by initiative or referendum, courts typically give to words of common usage their plain, natural, and ordinary meaning.

**[8] Taxation 371 ⚷2161**

371 Taxation
371III Property Taxes
371III(B) Laws and Regulation
371III(B)7 Limitation of Rate or Amount
371k2161 k. In General. Most Cited Cases
(Formerly 371k51)

Ballot Measure 47 to amend constitution had a close enough relationship to its successor, Ballot Measure 50, to provide relevant context in interpreting the constitutional cap on maximum assessed value of each unit of property for ad valorem property tax purposes. Const. Art. 11, § 11(1)(a).

**[9] Taxation 371 ⚷2161**

371 Taxation
371III Property Taxes

371III(B) Laws and Regulation
371III(B)7 Limitation of Rate or Amount
371k2161 k. In General. Most Cited Cases
(Formerly 371k51)

Ballot Measure 5 and judicial interpretation of the word "property" in constitutional provision created by Measure 5 as a specific unit of realty with or without improvements provided context for determining the voters' intent when they adopted the phrase "each unit of property in this state" in the related Ballot Measure 50 which amended constitution to cap maximum assessed value of each unit of property in this state for ad valorem property tax purposes. Const. Art. 11, § 11(1)(a, b).

**[10] Constitutional Law 92 604**

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions
92V(A) General Rules of Construction
92k604 k. History in General. Most Cited Cases
(Formerly 92k16)

In examining the history of a constitutional amendment by initiative or referendum, courts consider relevant materials contained in the voters' pamphlet, such as the ballot title and the explanatory statement.

****583 *563** On appeal from the Oregon Tax Court.[FN*]

FN* 15 OTR 182, 2000 WL 1038185 (2000).

Robert B. Rocklin, Assistant Attorney General, Salem, argued the cause and filed the brief for appellant Department of Revenue. With him on the brief were Hardy Myers, Attorney General, and Michael D. Reynolds, Solicitor General.

Elmer M. Dickens, Assistant County Counsel, Hillsboro, filed the brief for appellant Washington County.

David L. Canary, of Garvey, Schubert & Barer, Portland, argued the cause and filed the brief for respondent. With him on the brief was Richard Baroway.

***564** LEESON, J.

The Department of Revenue and Washington County Assessor (taxing authorities) appeal from a judgment of the Oregon Tax Court granting summary judgment in favor of Flavorland Foods (taxpayer). *Flavorland Foods v. Washington County Assessor,* 15 OTR 182, 2000 WL 1038185 (2000). For the reasons that follow, we reverse the decision of the Tax Court and remand the case for further proceedings.

At issue is the meaning of the phrase "each unit of property in this state" in Ballot Measure 50 (1997). Measure 50 amended Article XI, section 11, of the Oregon Constitution.[FN1] The legislature referred Measure 50 to the voters to replace a property tax limitation measure that the voters had approved in 1996, which had been known popularly as Ballot Measure 47. As this court recently explained,

FN1. Measure 50 repealed the prior version of Article XI, section 11, of the Oregon Constitution. Unless otherwise noted, all references to Article XI, section 11, are to that provision as amended by Measure 50. In this opinion, we use the terms "Measure 50" and "Article XI, section 11," interchangeably.

"Measure 47 was a short-lived constitutional amendment aimed at closing what its supporters considered to be a significant loophole in the property tax limitation goal of Measure 5 [an amendment to the Oregon Constitution adopted in 1990]. Certain practical and technical difficulties in the application of Measure 47 led the legislature to propose, and the people to adopt, Measure 50 as its effective replacement."
*Shilo Inn v. Multnomah County,* 333 Or. 101, 107 n. 6, 36 P.3d 954 (2001), *modified on recons.,* 334 Or. 11, 45 P.3d 107 (2002) (citations omitted).

Measure 50 was superimposed on an ad valorem real-property tax system in the State of Oregon in which taxes were levied on a property's real market value. *See* ORS 308.232 (1995) ("All real or personal property within each county shall be valued and assessed at 100 percent of its real market value."). The assessment rolls set out separate values for the land and the improvements. ORS 308.215(1)(e), (f) (1995). However, real property generally was taxed as a whole. *See Shields v. Dept. of Rev.,* 266 Or. 461, 470, 513 P.2d ***565** 784 (1973) (with some exceptions, real property taxed as whole); ORS 307.010 (1995) (real property includes land itself and all buildings, improvements, machinery, equipment, or fixtures).

As amended by Measure 50, Article XI, section 11(1)(a), of the Oregon Constitution 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."

****584** (Emphasis added.) A property's maximum assessed value may increase by no more than three percent per year. Or Const, Art XI, § 11(1)(b). The property is taxed on the lesser of the maximum assessed value or the real market value. *See* Or Const, Art XI, § 11(1)(a) (establishing "*maximum* assessed value" as upper limit on assessment) (emphasis added); Or Const, Art XI, § 11(1)(f) ("Each property's assessed value shall not exceed the property's real market value."). Thus, if the real market value of property exceeds the property's maximum assessed value, then property tax is levied based on the maximum assessed value, not the real market value, of the property.[FN2]

FN2. In 1997, the legislature enacted ORS 308.142 (1997) and amended ORS 308.215 (1997) to implement Measure 50. Those statutes appeared to be contradictory in that ORS 308.142(1)(a) defined "property," for purposes of Article XI, section 11, as "[a]ll property included within a single property tax account * * *," while ORS

308.215(1)(e) and (f) provided for the listing of separate maximum assessed values for land and improvements. In 1999, the legislature again amended ORS 308.215, eliminating the requirement that the taxing authorities list separate maximum assessed values for land and improvements. *See* ORS 308.215(1)(e) and (f) (1999) (providing only for real market value of land and improvements). We conclude that none of those statutes is relevant to the interpretive issue presented here.

As noted, the issue in this case is the meaning of the phrase "each unit of property in this state" in Article XI, section 11(1)(a). That issue comes to this court in the context of facts to which the parties have stipulated.

***566** I. FACTS

Taxpayer owns a parcel of commercial property in Washington County. Taxpayer and taxing authorities agree that, for 1995-96, the real market value of taxpayer's land was $455,000, and that the real market value of the improvements on that land was $3,267,820, for a total of $3,722,820. As noted above, 1995 is the year that forms the basis for calculating a property's maximum assessed value under the "cut and cap" provisions of Article XI, section 11(1)(a). In 1998-99, the tax year at issue here, the real market value of taxpayer's land had increased to $691,130, but the real market value of the improvements on that land had decreased to $2,080,030.

In the Washington County Assessor's view, Article XI, section 11(1)(a), created a cap on the value of the property as a whole. Thus, he concluded that, in calculating the maximum assessed value of taxpayer's property, Article XI, section 11(1)(a), permitted him to increase the assessed value of the land up to its real market value in 1998-99, so long as the total assessed value of all the property in taxpayer's tax account did not exceed the total maximum assessed value of all the property in the tax account for the 1997-98 tax year, plus three percent.

Taxpayer challenged the assessor's calculation of the maximum assessed value for its property before the Washington County Board of Property Tax Appeals (board). The board rejected taxpayer's challenge. Taxpayer then filed its complaint in the Tax Court. Before that court, the parties filed cross-motions for summary judgment. Taxpayer contended that Article XI, section 11(1)(a), required the assessor to calculate separate maximum assessed values for land and improvements. Under that approach, taxpayer argued, the maximum assessed value of its land for the 1998-99 tax year was $421,785, which was $270,345 less than the real market value of the land. Taxpayer did not challenge the assessed value that the assessor had assigned to its improvements for the 1998-99 tax year. The tax court granted summary judgment for taxpayer. *Flavorland,* 15 OTR at 185. Relying on its decision in *Taylor v. Clackamas County Assessor,* 14 OTR ***567** 504, 1999 WL 38270, *modified on recons.,* 14 OTR 581, 1999 WL 395383 (1999), *decision withdrawn by order* January 11, 2000 (2000 WL 31987), the Tax Court held that the phrase "each unit of property in this state" in Article XI, section 11(1)(a), refers to each unit of *assessable* property. *Flavorland,* 15 OTR at 184-85. Because land and improvements are assessed separately, the Tax Court concluded, Article XI, section 11(1)(a), requires separate maximum assessed values for land and improvements. *Id.*

****585** II. ANALYSIS

[1][2][3][4][5][6] On review, taxing authorities contend that the phrase "each unit of property in this state" in Article XI, section 11(1)(a), means "all property under one property tax account, including land and improvements." Taxpayer argues that the phrase "each unit of property in this state" refers to land and improvements separately. To resolve the parties' dispute, we must construe Article XI, section 11(1)(a). This court recently summarized the methodology that it employs when interpreting an initiative measure:

> "When we interpret either initiated or referred constitutional provisions, we attempt to discern the intent of the voters. *Stranahan v. Fred Meyer, Inc.,* 331 Or. 38, 56-57, 11 P.3d 228 (2000). That is so because, 'with respect to [such] provisions, it is the people's understanding and intended meaning of the provision in question * * * that are critical to [this court's] analysis.' *Id.* at 57 [11 P.3d 228]. The best evidence of the voters' intent is the text of the provision itself. *Ecumenical Ministries v. Oregon State Lottery Comm.,* 318 Or. 551, 559, 871 P.2d 106 (1994); *Roseburg School Dist. v. City of Roseburg,* 316 Or. 374, 378, 851 P.2d 595 (1993). If the voters' intent is clear after consideration of text and context, then the court's inquiry is over. *Ecumenical Ministries,* 318 Or. at 559 [871 P.2d 106]. The court, however, will not lightly conclude that the text is so clear that further inquiry is unnecessary. If any doubt remains, the court will consider the history of an initiated or referred constitutional provision in an effort to resolve the matter. *Id.*"

*Shilo Inn,* 333 Or. at 116-17, 36 P.3d 954 (brackets and ellipsis in original). We begin with the text of the phrase "each unit of property in this state."

***568** A. *Text*

[7] When interpreting the text and context of a constitutional amendment adopted by initiative or referendum, this court typically gives words of common usage their plain, natural, and ordinary meaning. *See Ester v. City of Monmouth,* 322 Or. 1, 9, 903 P.2d 344 (1995) (so stating).

Article XI, section 11, does not state what is meant by the phrase "each unit of property in this state," and it does not define any of the words in that phrase. Neither does the phrase "each unit of property in this state" have an established legal meaning. We thus begin our interpretive analysis by determining the plain, ordinary meanings of the words of common usage in the phrase in question. *Id.* We begin with the central term, "property," which, in this context, is

> "**2 a:** something that is or may be owned or possessed: WEALTH, GOODS; *specif* a piece of real estate * * * **c:** something to which a person has a legal title: an estate in tangible assets * * *[.]"

*Webster's Third New Int'l Dictionary* 1818 (unabridged ed 1993). That definition makes clear that the word "property" refers to a general class of things that can be owned. There is no dispute that, in this context, "property" refers to real estate.

We turn to the words "unit of," which modify the word "property." The term "unit" has the following potentially relevant definitions:

> "**2 a:** a single thing * * * that is a constituent and isolable member of some more inclusive whole **:** a member of an aggregate that is the least part to have clearly definable separate existence and that normally forms a basic element of organization within the aggregate <the township in the usual [unit] of government> <the family as the basic [unit] of society> * * *[.]"

*Id*. at 2500. Reading the definition of "unit" together with the definition of "property," a "unit of property" is the "constituent and isolable member" or "the least part to have clearly definable separate existence and that normally forms a basic element" of "something that is or may be owned or possessed," which, in this case, is real estate.

***569** The definition of property that emerges from the plain, ordinary meaning of the words in the disputed phrase is broad enough to encompass both taxing authorities' and taxpayer's arguments regarding maximum assessed value under Article XI, section 11(1)(a). On the one hand, the unit that has a "definable separate existence" for purposes ****586** of ad valorem property taxation could be the parcel of real property which, as noted above, includes both land and improvements. That perspective supports taxing authorities' contention that the phrase "each unit of property in this state" refers to all the property contained in an individual tax account. On the other hand, taxpayer is correct that land and improvements each have a "definable separate existence" that can be owned or possessed. That perspective supports taxpayer's argument that, in adopting Measure 50, the voters intended that land and improvements shall have separate maximum assessed values. Because the disputed text plausibly supports both parties' interpretations, we conclude that the text itself does not assist us in resolving the question of what the voters intended when they adopted Measure 50.

B. *Context*

We turn to context, which includes other relevant constitutional provisions and case law from this court. *See Ecumenical Ministries,* 318 Or. at 560, 871 P.2d 106 (first level of analysis includes provisions of same and related measures); *Stranahan,* 331 Or. at 61-62, 11 P.3d 228 (context includes relevant case law).

1. *Other Provisions of Article XI, Section 11*

We begin with other provisions of Article XI, section 11. Taxpayer argues that Article XI, section 11(1)(c), provides evidence that the voters intended the phrase "each unit of property in this state" to refer separately to land and improvements.

Article XI, section 11(1)(c), creates a ratio method for valuing property in some circumstances. It provides:

> "(c) Notwithstanding paragraph (a) or (b) of this subsection [described above], property shall be valued at the ratio of average maximum assessed value to average real market value of property located in the area in which the ***570** property is located that is within the same property class, if on or after July 1, 1995:
>
> "(A) The property is new property or new improvements to new property;
>
> "(B) The property is partitioned or subdivided;

"(C) The property is rezoned and used consistently with the rezoning;

"(D) The property is first taken into account as omitted property;

"(E) The property becomes disqualified from exemption, partial exemption or special assessment; or

"(F) A lot line adjustment is made with respect to the property, except that the total assessed value of all property affected by a lot line adjustment shall not exceed the total maximum assessed value of the affected property under paragraph (a) or (b) of this subsection."

Taxpayer argues that, "[i]n light of the 'exception value' structure" in Article XI, section 11(1)(c), "it is inconceivable" that the voters intended maximum assessed value to be calculated with respect to a parcel of property as a whole. As an example, taxpayer notes that, if "property" refers to land and improvements collectively, then Article XI, section 11(1)(c)(A), would authorize a tax assessor to revalue both land and improvements when new improvements alone are added to a property. Similarly, if "property" refers to land and improvements collectively, then Article XI, section 11(1)(c)(B), which permits alternative valuation when "property" is partitioned, would permit revaluation of both land and improvements when the partition involves only the land. Taxpayer provides additional examples under Article XI, section 11(1)(c), all of which, it contends, lead to the same conclusion, namely, that Article XI, section 11(1)(c), makes clear that the voters could not have intended the phrase "each unit of property in this state" to mean all the property in a tax account. Taxpayer apparently believes that that is so because taxing authorities' understanding of the phrase does not yield as much reduction in ad valorem property taxes as does taxpayer's proffered meaning of the phrase.

***571** Taxpayer's arguments under Article XI, section 11(1)(c), do not advance the analytical effort here, because those arguments *assume,* rather than *demonstrate,* the voters' intent in adopting the phrase "each unit of ****587** property in this state" in Article XI, section 11(1)(a). Taxpayer describes the effects that it believes will result if the phrase "each unit of property in this state" means all the property in a property tax account. However, without additional textual evidence that the voters did not intend *those effects,* taxpayer's argument does not provide contextual evidence that the voters intended the phrase to refer to land and improvements separately.

2. *Measure 47*

[8] We turn to other relevant context, which includes the provisions of other related measures. Taxing authorities have identified two measures that, in their view, provide relevant context: Measure 47 (1996) and Measure 5 (1990). As noted earlier in this opinion, Measure 47 was the predecessor to Measure 50. Taxing authorities contend that Measure 47 is a vital part of the context of Measure 50 because both measures aimed generally at tax reduction and Measure 50 was adopted "in the historical and legal shadow" of Measure 47. Section 11g(1) of Measure 47 provided:

"(1) Except as provided in subsections (3), (4), and (5) of this section, the *ad valorem property tax on each property* for the tax year 1997-98, excluding the portion of the tax that is levied to pay bonded indebtedness or interest thereon, shall not exceed the lesser of the following: (i) the ad valorem property tax on the same property for the tax year ending June 30, 1996, reduced by ten percent (10%), or (ii) the ad valorem property tax on the same property for the tax year ending June 30, 1995."

(Emphasis added.) Taxing authorities argue that the phrase "each property" in Measure 47 unambiguously referred to all the property in a property tax account, because property taxes never have been calculated on the individual components of a property tax account. Although Measure 50 adjusted the *manner* in which tax relief is achieved, taxing authorities continue, Measure 47 provides evidence that the ***572** voters intended to apply the limitation on taxes in Measure 50 to property as a whole.

Taxpayer disagrees that Measure 47 is relevant context for interpreting the voters' intent in Measure 50. According to taxpayer, Measure 47 sought to achieve property tax relief "by limiting the amount of the *tax* as applied to the whole property tax account." (Emphasis in original.) Measure 50, by contrast, "attacked the *assessed value component* of the tax equation," not the tax itself. (Emphasis in original.)

Taxing authorities are correct that Measure 47 has a close enough relationship to Measure 50 to provide relevant context. However, the text of Measure 47, without more, supports neither party's argument in this case. That is so, because Measure 47 used the phrase "each property" in describing property to be *taxed*. Measure 50, by contrast, used the phrase, "each unit of property in this state" in referring to the maximum *assessed value* of property. We agree with taxpayer that, standing alone, the text of Measure 47 does not help to explain the voters' intent regarding the meaning of the phrase "each unit of property in this state" in Measure 50.

3. *Measure 5*

[9] We turn to taxing authorities' argument regarding Measure 5 as context for understanding the voters' intent regarding Measure 50. Measure 5, which the voters approved in 1990, became Article XI, section 11b, of the Oregon Constitution. *See Shilo Inn,* 333 Or. at 105 n. 2, 36 P.3d 954 (explaining history of Measure 5). There is a close link between Article XI, section 11b, and Measure 50, which, as noted, became Article XI, section 11. Indeed, Article XI, section 11, which is at issue in this case, makes more than 10 references to provisions of Article XI, section 11b. *See, e.g.,* Or Const, Art XI, §§ 11(3)(a)(A), 11(3)(a)(B), 11(3)(h), and 11(5)(b)(B) (referring to section 11b). Article XI, section 11, also provides that the term "real market value" shall have the same meaning under Article XI, section 11, and Article XI, section 11b. *See* Article XI, § 11(11) (so stating).

In April 1997, the month before the voters adopted Measure 50 in a special election, this court held that the word ***573** "property" in Measure 5 means "a specific *unit of realty (with or without improvements)* that is identified****588** by the appropriate authority by tax lot number or by some other method." *Shatzer v. Dept. of Rev.,* 325 Or. 211, 219, 934 P.2d 1119 (1997). The voters thus were on notice when they adopted Measure 50 that this court had interpreted the word "property" as being synonymous with the phrase "unit of realty," with or without improvements, that is identified by tax lot number or by some other method.

Taxpayer disagrees that this court's interpretation of the word "property" in *Shatzer* properly is considered as part of the context in seeking to understand the voters' intent in Measure 50. For that proposition, taxpayer relies on the following statement in *Stranahan:*

> "Our first level of analysis under *Ecumenical Ministries* also includes relevant case law interpreting Article IV, section 1. *See Coultas* [ *v. City of Sutherlin,* 318 Or. 584, 589-90, 871 P.2d 465 (1994) ] (examining earlier case law construing initiated constitutional amendment *in question* )."

331 Or. at 61, 11 P.3d 228 (emphasis added). According to taxpayer, the phrase "in question" in the parenthetical explanation of *Coultas* means that the *only* case law from this court that is relevant context for interpreting an initiative measure is case law interpreting the *same* initiative measure. Taxpayer concludes that, because *Shatzer* interprets Measure 5, not Measure 50, *Shatzer* 's holding regarding the meaning of "property" in Measure 5 has no relevance in seeking to understand the intent of the voters in Measure 50.

Taxpayer misreads *Stranahan*. In a footnote immediately following the portion of *Stranahan* quoted above, on which taxpayer relies, the court stated: "The first level of analysis also includes context, *including related constitutional provisions that were in place when the provision in question was adopted*." *Stranahan,* 331 Or. at 62 n. 15, 11 P.3d 228 (emphasis added). Constitutional provisions or amendments that are created through either legislative referral or initiative petition are adopted by the people against the backdrop of an existing constitutional framework. *Id*. at 57, 11 P.3d 228. That framework includes this court's interpretation of related constitutional provisions.

***574** Measure 5 was in place as Article XI, section 11b, when the voters approved Measure 50 and, as we have explained above, Measure 5 and Measure 50 are closely related. We conclude that both the text of Measure 5, and the interpretation of the word "property" in Measure 5 in *Shatzer,* provide context that is helpful in determining the voters' intent when they adopted the phrase "each unit of property in this state" in Measure 50. We agree with taxing authorities that Measure 5, and this court's holding in *Shatzer* that the word "property" means "unit of realty," with or without improvements, that is identified by a tax lot number or by some other method, suggests that the voters intended "each unit of property in this state" in Measure 50 to refer to all the property in a property tax account. *See* ORS 308.245 (1995) (each land parcel subject to assessment assigned tax lot or account number).

4. *ORS Chapter 308*

Finally, taxpayer contends that tax statutes in effect when the voters adopted Measure 50, particularly those in ORS chapter 308, provide relevant context and support taxpayer's interpretation of the phrase "each unit of property in this state." Specifically, taxpayer argues that, under ORS 308.215, land and improvements have been treated as separate parts of property for assessment purposes. *See* ORS 308.215(1)(e), (f) (1995) (providing that, for each parcel of real property, assessor shall set down in assessment roll assessed value of land and assessed value of improvements). For decades, those separate assessed values have appeared on the tax bills that taxpayers receive. Accordingly, taxpayer concludes, when they adopted Measure 50, the voters were aware that the tax rolls include separate entries for the values of land and improvements. Moreover, the voters also were aware that taxpayers may appeal the real market values of land and improvements separately. *See Nepom v. Dept. of Rev.,* 272 Or. 249, 256, 536 P.2d 496 (1975) (holding taxpayer entitled to challenge value of improvements only without putting ****589** value of land at issue).FN3 It follows, taxpayer ***575** argues, that the voters intended the phrase "unit of property" to refer to land and improvements separately. Taxing authorities respond that the connection between the statutory form in which the assessment roll must be prepared and Measure 50, which limits taxes on real estate, is too remote to provide meaningful insight into the voters' intent in adopting Measure 50.

FN3. We note that, in *Nepom,* the court did not define the word "property" and did not refer to land and improvements as "units" of property. Instead, the court in *Nepom* assumed that the "unit" of property was the parcel as a whole. *See* 272 Or. at 255, 536 P.2d 496 ("We appreciate that some property, particularly residential, is valued in the marketplace *as a unit*.") (emphasis added).

We agree with taxing authorities. Taxpayer reads too much into the requirement in ORS 308.215(1) (1995) that the tax rolls include separate values for land and improvements. Nothing in ORS chapter 308 referred to land and improvements as "units." FN4 Moreover, the statutes governing the form of the assessment rolls also required the assessor to include on the assessment role "[t]he total assessed value and real market value of each parcel of real property assessed." ORS 308.215(1)(i) (1995). We believe that, to the extent that the voters considered those statutes, it is just as likely that they intended the phrase "each unit of property in this state" to refer to the total assessed value for each parcel of real property assessed, ORS 308.215(1)(i) (1995), as it is that they intended that phrase to refer to individual assessed values, ORS 308.215(1)(e), (f) (1995).

FN4. The word "unit" in ORS 380.215(1)(g) (1995) refers to condominium "units" under ORS 100.005 to 100.910.

Our review of the relevant context of Article XI, section 11(1)(a), suggests that the voters most likely intended the phrase "each unit of property in this state" to refer to all the property in a property tax account rather than to land and improvements separately. We turn to a consideration of the history surrounding the enactment of Measure 50.

C. *History*

[10] In examining the history of a referred measure, this court considers relevant materials contained in the voters' pamphlet, such as the ballot title and the explanatory statement. *Shilo Inn,* 333 Or. at 129-30, 36 P.3d 954 (so indicating). We turn to the relevant materials regarding the history of Measure 50.

***576** 1. *Ballot Title and Estimate of Financial Impact*

The ballot title for Measure 50 does not mention the phrase "each unit of property in this state." Neither does the ballot title indicate that approval of Measure 50 would require county tax assessors to calculate separate maximum assessed values for land and improvements in each property tax account. Rather, the ballot title describes the measure as limiting the assessed value *of property* for tax purposes. The ballot title caption for Measure 50 states:

"AMENDS CONSTITUTION: LIMITS ASSESSED VALUE *OF PROPERTY* FOR TAX PURPOSES; LIMITS PROPERTY TAX RATES"

Official Voters' Pamphlet, Special Election, May 20, 1997, 5 (emphasis added). Similarly, the "yes" vote result statement states: "A 'yes' vote adopts amendment limiting property taxes through restrictions on assessed value *of property* and property tax rates." *Id.* (emphasis added). Finally, the ballot title summary explains the measure, in part, as follows:

> "This measure changes current provisions relating to property taxation. The measure establishes the maximum assessed value *of property* in this state for the 1997-1998 tax year as 90 percent of *the property's* real market value in the 1995-1996 tax year and then limits any increase in maximum assessed value for tax years following 1997-1998 to three percent per year * * *. *This reduction will reflect Measure 47 cuts* by basing the cuts on the lesser of the 1995-1996 tax minus 10 percent or the 1994-1995 tax, adjusted for voter-approved levies * * *."

****590** *Id.* (emphasis added). In describing Measure 50, the ballot title caption, the "yes" vote result statement, and the summary do not use the phrase "each unit of property in this state." Rather, they refer to the assessed value of "property." As we have explained above, the word "property" refers to the general class of things that can be owned, or, in the context of real property, to real estate in general. The use of the word "property" in the ballot title for Measure 50, rather than "each unit of property," suggests that the voters intended the phrase "each unit of property in this state" in Measure 50 to refer to all the property in a property tax account.

***577** Reading the summary together with the "estimate of financial impact" bolsters that conclusion. The estimate of financial impact states that Measure 50 "replaces Measure 47 * * *." The summary, quoted above, states that the property tax reductions under Measure 50 "will reflect Measure 47 cuts." As we have explained earlier in this opinion, Measure 47 dealt with ad valorem property tax on "each property," and taxes on real property were not levied on the individual components of a property tax account. *See* ORS 307.010(1) (1995) ("real property" includes land and improvements).

2. *Explanatory Statement*

We turn to the explanatory statement for Measure 50 that the 1997 Legislative Assembly provided. That statement first notes that, in 1996, the voters approved Measure 47, which limited "the amount of property taxes that may be collected from *each parcel* of property." Voters' Pamphlet at 6 (emphasis added). The statement then explains that Measure 50 "would replace the percentage of tax limitations in Measure 47 with a reduction in the maximum assessed value *of property* for the 1997-1998 tax year * * *." *Id.* (emphasis added). Notably, the explanatory statement describes the tax limitations in Measure 47 as applying to "parcels" of property and then draws a correlation between those limitations and the limitations in Measure 50. Moreover, in describing the differences between Measure 47 and Measure 50, the explanatory statement does not use the phrase "each unit of property in this state." Voters who read the explanatory statement likely would have understood that the property tax limitation in Measure 50, like the limitation in Measure 47, applied to parcels of property. The explanatory statement thus suggests that voters intended the phrase "each unit of property in this state" to refer to all the property in a property tax account.

3. *Legislative Argument in Favor of Measure 50*

Finally, we turn to the legislative argument in support of Measure 50. That argument recommends a "yes" vote "to ensure you receive the property tax relief expected under Measure 47[.]" *Id.* at 7. The legislative argument in favor of Measure 50 also states that Measure 50 delivers the property tax relief that Measure 47 had promised to the voters, that ***578** Measure 50 maintains "a 17% tax cut and a 3% growth cap as promised by Measure 47," that Measure 50 would save millions of dollars each year because it is easier and cheaper to administer than Measure 47 or Measure 5, and that Measure 50 maintains the funding priorities for schools and public safety that Measure 47 had promised. *Id.* Finally, the legislative argument in support of Measure 50 states that the measure "rolls assessed property values back to 90% of their 1995-96 level." *Id.*

Significantly, the legislative argument in support of Measure 50 does not mention the phrase "each unit of property in this state" or land and improvements as separate aspects of property. As we have explained above with respect to the explanatory statement, the use of the term "property," and the references to Measure 47 in the legislative argument in favor of Measure 50, are an indication that the phrase "each unit of property in this state" in Measure 50 refers to all the property in a property tax account.[FN5]

FN5. Taxpayer notes that the text of Measure 50, which contains the disputed phrase "each unit of property in this state," also appears in the voters' pamphlet. In taxpayer's view, the appearance of the phrase in the voters' pamphlet is historical evidence establishing the voters' intent. We already have examined the plain meaning of the text and found that it plausibly can be read to support both taxpayer's and taxing authorities' arguments.

****591** III. CONCLUSION

In summary, we hold that the text of the phrase, "each unit of property in this state," in Article XI, section 11(1)(a), plausibly refers either to land and improvements separately, or to all the property in a property tax account. However, the context surrounding Measure 50 and the history of the measure clarify the voters' intent. We conclude that the voters intended the phrase "each unit of property in this state" to refer to all the property in a property tax account, which, in this case, includes both land and improvements. By requiring each unit of property in this state to have a maximum assessed value for purposes of ad valorem property taxes, Article XI, section 11(1)(a), provides that each property tax account shall have a maximum assessed value for purposes of ad valorem property taxes.

The decision of the Tax Court is reversed, and the case is remanded to that court for further proceedings.

Or.,2002.
Flavorland Foods v. Washington County Assessor
334 Or. 562, 54 P.3d 582

END OF DOCUMENT

Judges and Attorneys

Oregon Tax Court, Regular Division.
Ronald P. **HOXIE**, Plaintiff,
v.
DEPARTMENT OF REVENUE, State of Oregon, Defendant,
and
CLATSOP COUNTY ASSESSOR, Intervenor-Defendant.

No. 4494.
April 11, 2001.

OPINION

****323** BYERS, J.

***1** Plaintiff (taxpayer) appeals a magistrate determination of the exception value used to increase the maximum assessed value (MAV) of his property for the 1997-98 tax year. Taxpayer claims the improvements made were not the source of the great increase in value between 1995 and 1997. Clatsop County (the county) intervened and defended the assessment. Trial was held January 30, 2001, in Astoria, Oregon.

FACTS

The parties agree on many of the facts. The subject property consists of an entire city block in downtown Astoria near the county courthouse, improved with two large buildings and a parking lot. The office building located at 800 Exchange Street (800 building) was constructed in 1923. It has four stories of 4,198 square feet per floor plus 2,500 square feet in the basement. The medical clinic building located at 820 Exchange Street (820 building) was constructed in 1978-79 and has two stories with 7,600 square feet per floor.

The property's history is interesting and relevant. In 1954, a group of medical doctors purchased the 800 building plus a parking area. In 1978-79, the doctors acquired the rest of the land in the block and constructed the 820 building at a cost of approximately 1.2 million dollars. In 1989, U.S. Bancorp foreclosed its mortgage for $1,465,000, and the subject property was conveyed to the bank by a deed in lieu of foreclosure.

When the bank took over the property, all of the buildings were vacant. In 1989, the bank leased the second floor of the 800 building to a state agency. In 1993, the bank leased the second floor of the 820 building to a group of doctors. Sometime around 1993, the bank listed the property for sale at $675,000. The county considered buying the property and negotiated a price of $500,000. Taxpayer learned of the availability of the property by a newspaper article indicating that the county had declined to purchase it. Taxpayer purchased the property in June 1994 for $500,000. At that time, the property had an assessed value of $691,360. Based on the ****324** purchase price, taxpayer appealed to the board of equalization, which reduced the assessed value of the property to $500,000 for the 1994-95 tax year. The assessed value was increased for the 1995-96 tax year to $580,000 based on a trending factor of 16 percent.

Taxpayer took possession in September 1994 and immediately began cleaning the property and started a maintenance program. Apparently, there was a significant amount of trash and debris to be removed, and the 800 building was in need of painting and many repairs. In addition, taxpayer engaged an architect that resulted in what taxpayer describes as three creative changes. The changes were: (1) realignment of the lobby area of the first floor in the 820 building, (2) creation of a new entrance in the 800 building to open up the first floor and basement, and (3) installation of a new staircase in the 800 building from the third floor to the fourth floor. Taxpayer made a number of other improvements such as replacing some windows, rewiring the 800 building, leveling the first floor in the 800 building, and installing a new fire-alarm system in the 800 building. Many improvements were effected to make spaces suitable for tenants such as moving walls, changing plumbing and floor covering. Taxpayer testified that he spent $58,664 in improvements from the time of purchase up to July 1, 1995. He stated that he spent $225,265 on improvements between July 1, 1995, and July 1, 1997.

ISSUE

***2** For purposes of determining the property's MAV for 1997-98, how much value did the post-1995 improvements add?

ANALYSIS

Article XI, section 11, of the Oregon Constitution, adopted in the May 1997 election, establishes a MAV for property taxation. Section 11 specifies that the MAV shall be the 1995 real market value (RMV) reduced by 10 percent. Thereafter, the MAV may increase 3 percent per year. However, the constitution and implementing statutes recognize that there are exceptions to the rule. One specific exception is ****325** for new construction or new improvements to existing property.

Article XI, section 11 has been implemented by statutes. *See* Oregon Laws 1997, chapter 541. ORS 308.153 [FN1] provides the method for computing a new MAV where there are new improvements to property. That statute provides, in relevant part, as follows:

FN1. All references to the Oregon Revised Statutes are to 1997.

"(1) If new property is added to the assessment roll or improvements are made to property as of January 1 of the assessment year, the maximum assessed value of the property shall be the sum of:

"(a) The maximum assessed value determined under ORS 308.146; and

"(b) The product of the value of the new property or new improvements determined under subsection (2) of this section multiplied by the ratio of the average maximum assessed value over the average real market value for the assessment year.

"(2) The value of new property or new improvements shall equal the real market value of the new property or new improvements reduced (but not below zero) by the real market value of retirements from the property tax account.

"(3) The property's assessed value for the year shall equal the lesser of:

"(a) The property's maximum assessed value; or

"(b) The property's real market value." [FN2] ORS 308.153.

FN2. Because the constitutional amendment required a change of the assessment date from July 1 to January 1, it was necessary to provide an adjustment for the first year to which the provision applied. Consequently, Oregon Laws 1997, chapter 541, section 12 provides that for the tax year beginning July 1, 1997, the value determined under section 11(2) of the act (ORS 308.153(2)) shall be the real market value as of July 1, 1997, reduced by retirements.

In construing and applying ORS 308.153, it is necessary to consider the definitions contained in ORS 308.149. Specifically, ORS 308.149(5)(a) states, in part:

" 'New property or new improvements' means changes in the value of property as the result of:

****326** "(A) New construction, reconstruction, major additions, remodeling, renovation or rehabilitation of property[.]"

Because new improvements are defined as "changes in value" rather than the improvements themselves, it appears that the legislature intended to measure the increase in RMV of the remodeled property as opposed to the value of the improvements themselves. Consequently, remodeling that cost $15,000 might increase the RMV of the property only $9,000, or it could increase the value $50,000. The statutory test measures the net increase in value as a result of the improvements.

The parties agree that the critical task for the court is to determine how much the RMV increased as a result of the improvements .[FN3] It is a daunting task. In making the determination, the court must exclude increases in RMV due to cleaning, maintenance and repairs, or minor construction.[FN4] Likewise, the court cannot consider increases in RMV due to inflation, changes in market demand, or changes in management or use of the property.

FN3. There is no real dispute about the changed property ratio and there is no dispute with regard to the MAV of the property prior to the improvements.

FN4. " 'Minor construction' means additions of real property improvements, the real market value of which does not exceed $10,000 in any assessment year or $25,000 for cumulative additions made over five assessment years." ORS 308.149(6). *See also* OAR 150-308.149-(A).

***3** Obviously, a myriad of factors can affect the RMV of property. Changes in interest rates, traffic patterns, laws such as the Americans with Disabilities Act, fire and safety codes, technology, costs, asbestos, and many other things can all affect RMV. However, none of those factors constitutes an exception to the MAV. The exception value is limited to the RMV attributable to the new improvements. In this case, those new improvements are the new entrance to the 800 building, the new staircase to the fourth floor of the 800 building, the realigned lobby in the 820 building, and other changes in walls, bathrooms, floors, wiring, alarms, windows, and lights. The new improvements do not include cleaning and painting of the exterior walls and windows. It also does ****327** not include work on the building where there is no significant change in "design or materials." OAR 150-308.149-(A)(2)(b).

The determination of value is made even more difficult by the fact that there was work in progress as of July 1, 1995. Improvements made prior to July 1, 1995, would not be considered "new improvements" under ORS 308.153. Only those improvements made from July 1, 1995, to July 1, 1997, constitute new improvements for purposes of calculating an exception value.

In his testimony, taxpayer acknowledged his good fortune. He spent less than $4,000 realigning the lobby in the 820 building. Nevertheless, by July 1, 1995, he had leased the entire 820 building for a total monthly rent of $14,200. He had also leased part of the first floor and all of the second floor of the 800 building for a total monthly rent of $5,188. Thus, as of July 1, 1995, taxpayer was receiving $232,656 in annual gross rent, with portions of the 800 building yet to be rented. Taxpayer testified that his management policy was not to build out or finish space until after a tenant had signed the lease and that most of the improvements were done to suit the tenants.

By July 1, 1997, taxpayer was receiving a total of $314,234 in annual rent. (Ptf's Ex 43.) Taxpayer argues that because he was receiving 74 percent of the relevant rent by July 1, 1995, it is unlikely that an additional 26 percent increase in rent created a million dollar increase in value due to the improvements.

The parties submitted appraisal evidence. When taxpayer sought financing to purchase the property in 1994, the Bank of Astoria had the property appraised. The appraiser was aware of the property's history and offering/listing price of $675,000. That appraiser saw the market as stagnant with no real growth anticipated. He also did not anticipate changes in the property, viewing the "current configuration" of the 800 building as representing the "most economically optimum use of the property at this time." (Ptf's Ex 41 at 8.) Consequently, that appraiser found an as-is value of $572,500 but a value with stabilized occupancy of $625,000. He viewed the property as a turn-around project with higher-than-market risk.

***4 **328** In 1998, taxpayer applied to the Bank of Astoria for refinancing. The bank again had the property appraised, this time by Jackson Roholt. Roholt opined that the RMV of the property as of March 1998 was $2,050,000. At that point, the property had a potential gross-rental income of $347,244 per year. Roholt saw the property in a more positive light. He indicated that it is located in "the heart of downtown" Astoria and is in a good neighborhood. He estimated that renovations had reduced the effective age of the 800 building to 20 years.

Taxpayer was aware of Roholt's appraisal and asked him to calculate an exception value for purposes of the property tax appeal. Based on reconstructed income, Roholt calculated the RMV of the property as of

July 1, 1997, at $1,857,000. (Ptf's Ex 1.) He also calculated the RMV of the subject property as of July 1, 1995, at $1,524,000. (Ptf's Ex 44.) That resulted in an increase of $333,000 in value attributable to: (1) $225,656 [FN5] in improvements, (2) increased land values, and (3) increased rental values due to inflation. Roholt calculated the increase in rent due to inflation as having a market value of $68,960, leaving $264,040 for the increase in value due to the improvements and increases in land value.

FN5. Roholt rounded the cost of the improvements to $225,000. (Ptf's Ex 44.)

The county also had the property appraised for the purpose of calculating an exception value to the MAV. The county appraiser found a RMV as of July 1, 1997, of $1,904,000, of which she attributed $370,500 to land and $1,533,500 to improvements. She calculated an exception value by first determining the RMV of the improvements for 1995 and trending them forward to July 1, 1997. That is, of the total $580,000 RMV as of July 1, 1995, the appraiser found that the RMV of the improvements was $365,640. She trended that amount forward to July 1, 1997, to arrive at a RMV for the improvements of $449,737. She then deducted that amount from the July 1, 1997, RMV of the improvements to arrive at an exception value of $1,083,763.

The county recognizes that the exception value may not include increases due to market trends. (Inv's Ex A at 32.) The appraiser ****329** attempted to account for market trends by applying a trending factor to the original RMV of the improvements. However, that approach assumes that all of the remaining increase in value is due to new improvements. The evidence indicates that such is not the case with this property.

It is apparent that taxpayer's leasing of the 820 building and the second floor of the 800 building were not due to new improvements but probably a combination of cleaning and good luck. Those two leases alone significantly increased the income and therefore the value of the property. Moreover, some of the improvements were made prior to July 1, 1995, and would therefore be excluded from consideration.

The assessment history of the subject property is revealing. The total assessed values by year are as follows:

| Year | Assessed Value | Year | Assessed Value |
|---|---|---|---|
| 1988-89 | $1,340,280 | 1993-94 | $ 691,360 |
| 1989-90 | $1,165,570 | 1994-95 | $ 500,000 |
| 1990-91 | $1,015,800 | 1995-96 | $ 580,000 |
| 1991-92 | $1,015,800 | 1996-97 | $ 713,400 |
| 1992-93 | $ 750,000 | 1997-98 | $1,590,426 |

***5** Based on all the evidence, the court is persuaded that the decline in market value from $1,340,280 in 1988 to $500,00 in 1994-95 was primarily a result of market demand, rather than deterioration in the property. Likewise, the rapid increase in value from 1995 to 1997 was due in large part to changes in market demand. Although the county appraiser applied a trending factor, it must be remembered that such factors are generalized from sales data. A specific property may increase in value either at a greater or lesser rate due to its unique characteristics and circumstances.

Roholt calculated an increase in RMV between July 1, 1995, and July 1, 1997, of $333,000. Because some of the rents in 1995 were higher than those in 1997, Roholt probably overestimated the 1995 RMV. However, it does not appear that it would have been excessive by more than $50,000-$60,000. Roholt also calculated a capitalized value of the increase in rents after July 1, 1997, at $68,960. (Ptf's Ex 44.)

****330** Concluding that the increase in rents largely offsets the excessive rents estimated for the 1995 value, Roholt's income approach indicates an increase in RMV of approximately $330,000. The cost approach would indicate something more than the $225,656 invested because the value of taxpayer's labor is not included in those out-of-pocket costs. Because taxpayer's labor included management, supervision of cleaning, and other items not includible in new improvements, it is impossible to estimate the value of that factor.

Based on the above analysis, the court finds that the increase in RMV was $330,000. That increase in RMV must be multiplied by the changed property ratio of .73, resulting in an exception value of $240,900. The court finds that $240,900 should be added to the original MAV of the improvements of $329,076 for a total improvement MAV of $569,976. When added to the MAV of the land of $192,924, the court arrives at a July 1, 1997, MAV for the subject property of $762,900. Judgment will be entered consistent with this Opinion. Plaintiff to recover his costs and disbursements.

Or.Tax Regular Div.,2001.
Hoxie v. Department of Revenue
2001 WL 406248, 15 Or. Tax 322

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Judges and Attorneys(Back to top)

Judges

Judges

• **Byers, Hon. Carl N.**
State of Oregon Tax Court
Salem, Oregon 97301
Litigation History Report | Judicial Reversal Report | Profiler

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Judges and Attorneys

Oregon Tax Court, Regular Division.
Thelma C. MAGNO, Plaintiff,
v.
DEPARTMENT OF REVENUE, State of Oregon, Defendant,
and
Washington County Assessor, Intervenor.

TC 4720.
May 18, 2006.

OPINION
HENRY C. BREITHAUPT, Judge.
****52** I. INTRODUCTION

***1** This case comes before the court for decision after trial. Plaintiff (taxpayer) appeals from a Magistrate Decision finding that, for the 2003-04 tax year, the real market value (RMV) of certain residential property owned by taxpayer was $933,000 and the maximum assessed value (MAV) and assessed value (AV) of the property was $893,630. Taxpayer maintains that the actual RMV of the property was not more than $700,000, and, alternatively, that the AV of the property should not have exceeded $800,600. Defendant (the department) and Intervenor (the county) ask the court to find that the RMV of the property was $1,200,000, or, alternatively, that the MAV and AV of the property was $1,093,610.[FN1]

FN1. Because the department tendered the majority of the trial to the county, and because both the department and county made the same arguments, the court refers to the arguments of both as those of the county.

****53** I. FACTS

Taxpayer purchased certain residential property in Washington County in June 2000 for $452,500. Soon thereafter, taxpayer began improving the landscaping and remodeling the single-family residence located on the property (together, the remodel). The remodel can be described as follows: taxpayer gutted and rebuilt over half the home; added approximately 1,000 square feet to its size; and significantly updated, remodeled, and refurbished the rest of the home and the landscaping. By January 1, 2002, taxpayer had completed about half of that work. The county, as of that date, for purposes of collecting property taxes for tax year 2002-03, determined that the RMV of taxpayer's property was $839,270 (of which $187,850 was for the land and $651,420 for the improvements), and that the MAV and AV was $777,240. By January 1, 2003, taxpayer had completed almost all of the remodeling work. The county, as of that date, for purposes of collecting property taxes for tax year 2003-04, determined that the RMV of taxpayer's property was $1,224,710 (of which $192,780 was for the land and $1,031,930 for the improvements), and that the MAV and AV was $1,112,120. The county derived the figures for the 2003-2004 tax year using an exception value (EV) of $415,980 and a changed property ratio (CPR) of 0.749.

Taxpayer appealed the county's assessment for tax year 2003-04 to the county Board of Property Tax Appeals (BOPTA), which found taxpayer's property to have an RMV of $933,000 (of which $192,780 was for the land and $740,220 was for the improvements), an EV of $124,270, and an MAV and AV of $893,630. Taxpayer appealed that decision to the Magistrate Division of this court, which left the BOPTA values undisturbed. This appeal ensued.

II. ISSUE

What are RMV and MAV of taxpayer's property for tax year 2003-2004?

III. ANALYSIS

In Oregon, real property is taxed on the lesser of the property's MAV or RMV. ORS 308.146(2); ORS 308.153(3).[FN2] ****54** The MAV is normally the greater of the property's MAV from the prior year or 103% of the property's AV from the prior year. ORS 308.146(1). However, for new property and new improvements to property, the MAV is calculated differently. ORS 308.146(3) (a). With new improvements to property, such as is involved in the remodel at issue in this case, *see* ORS 308.149(5)(a)(A) (including "remodeling" in the definition of "new property or new improvements"); OAR 150-308.149-(A) (1)(d)[FN3] (defining "remodeling" as "a type of renovation that changes the basic plan, form or style of the property"), the MAV is the sum of the MAV as derived under ORS 308.146 (the MAV of the property as if it had not changed) and the MAV of the new improvements. ORS 308.153(1). The MAV of the new improvements is the product of the EV and the CPR. ORS 308.153(1)(b). The EV is the amount by which the RMV of the new improvements exceeds the RMV of any retirements. ORS 308.153(2)(a). The CPR is the ratio of the average MAV for similar property in the area to the average RMV for similar property in the area. ORS 308.153(1)(b); ORS 308.149 (defining terms used in ORS 308.153(1)(b)).[FN4]

FN2. All references to the Oregon Revised Statutes (ORS) are to the 2001 edition.

FN3. All references to the Oregon Administrative Rules (OAR) are to the current edition.

FN4. In 2001, the legislature amended ORS 308.153(1)(b) to state that the CPR cannot exceed 1.00. Or Laws 2001, ch 509, § 9.

***2** The values of several of the abovementioned factors are undisputed in this case. The MAV and AV of the property for tax year 2002-03 was $777,240. Accordingly, the MAV of the property for tax year 2003-04, is the greater of the prior year's MAV ($777,240) or 103% of the prior year's AV ($800,557) as calculated under ORS 308.146, which is $800,557. Additionally, it is undisputed that the CPR relevant to this case is 0.749. What remains in dispute are the values of the two remaining factors that determine the MAV and, ultimately, the AV of taxpayer's property for tax year 2003-04: the EV and RMV of taxpayer's property for that year.

RMV is "the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's-length ****55** transaction occurring as of the assessment date for the tax year." ORS 308.205(1). *See Chart Development Corp. v. Dept. of Rev.,* 16 OTR 9, 11-13 (2001) (discussing the concept of RMV). There are three traditional methods used to calculate RMV: the cost approach, the income capitalization or income approach, and the sales comparison approach, also known as the sales or market approach. *Allen v. Dept. of Rev.,* 17 OTR 248, 252 (2003); *see also* OAR 150-308.205-(A)(2) (stating that all three methods must be considered in determining a property's RMV even if all cannot be applied). Neither taxpayer nor the county found the income approach appropriate for taxpayer's property, and neither does the court, because taxpayer's property is not used to generate income. *See* Appraisal Institute, *The Appraisal of Real Estate* 62 (12th ed 2001) (stating that the income approach is "not often used in the valuation of single-family homes"). The dispute, therefore, centers on the cost and income approaches.

A. *The Cost Approach*

"In the cost approach, the value of a property is derived by adding the estimated value of the land to the current cost of constructing a reproduction or replacement for the improvements and then subtracting the amount of depreciation * * * in the structure from all causes." Appraisal Institute, *The Appraisal of Real Estate* 63. The cost approach is "particularly useful in valuing new or nearly new improvements," *id.,* and taxpayer accordingly places great reliance on it. However, the cost approach is less useful where the evidence of cost is incomplete, distorted, or otherwise unreliable. The county argues that such is the case here and that, therefore, the cost approach is inappropriate for taxpayer's property.

Taxpayer presented extensive evidence at trial showing the costs she incurred remodeling her property, including financial records prepared by her business partner, Bruce Deschner, who supervised and worked on the remodel. Based on those records, taxpayer testified that she spent $346,000 on the remodel. That figure was kept low, she testified, because she did much work herself, sought out ****56** bargains on materials, avoided expensive materials, and refurbished many materials that were already in the home. For instance, taxpayer testified that she bought many plants at bargain basement prices at an auction and that she avoided expensive hardwood flooring in favor of pergo. Taxpayer argues that, given her evidence, and because the construction is new, the cost approach should be accorded great weight in valuing her property.

***3** The reliability of taxpayer's evidence is placed in some doubt, however, by the testimony of Deschner, who stated that the $346,000 figure was low by approximately $10,000 to $15,000 because he had failed to account for some costs related to flooring, roofing, and other aspects of the remodel. Similarly, as the county pointed out, some expensive items, such as certain decking materials, appeared to be missing from taxpayer's cost estimate. On the other hand, Deschner also testified that the cost estimate was somewhat high in that it included some items of personal property, such as a $4,500 refrigerator. Taxpayer's cost estimate was further undermined by taxpayer's appraiser, Steven Gentzkow. In his appraisal, Gentzkow valued taxpayer's property under the cost approach at $771,233, of which $175,000 was for the land, $65,000 for the “as-is value of site improvements,” $737,984 for the reproduction cost of the improvements, and $206,751 for depreciation.[FN5]

FN5. Although Gentzkow ultimately found the market approach the strongest indication of value, his final conclusion of value drew support from the cost approach.

The county argues that, in addition to those discrepancies, taxpayer's cost estimate is unsound for a more fundamental reason: taxpayer did not pay market price for the remodel. To understand the county's argument, it is necessary to give some background information on the relationship between taxpayer and Deschner. Taxpayer and Deschner were business partners for many years in a company called Magno Pacific Construction (MPC).[FN6] Taxpayer owned 52% of ****57** the company as President and Deschner owned 48% as Vice-President.[FN7] DESCHNER DID MOST of the work for mpc, from bidding ON projects to managing money, while taxpayer participated in general management. MPC had only a small handful of permanent employees but as many as 80 temporary employees when it worked on large projects. The company was primarily engaged in the business of working on government construction projects, although it did work on two residential projects, an area in which Deschner had much experience.

FN6. Although taxpayer testified that the company was founded in approximately 1997 and closed in 2002, Deschner testified that it was founded in 1990 and closed in June 2003. The court finds that Deschner's testimony was generally more reliable than taxpayer's with regard to financial and business matters.

FN7. Those facts are derived from the testimony of Deschner. Taxpayer testified that she did not know how many shares of the company she and Deschner each owned, and that he was President and she was Vice-President.

Most of the work on taxpayer's remodel was performed by her, Deschner, and MPC employees, although electrical work, plumbing, flooring, roofing, and some other work was done by outside companies. Taxpayer paid contractor rates for materials, which are generally lower than retail rates.[FN8] Additionally, as the county points out, taxpayer paid less than market rate for labor costs because she was able to cut out the profit element on work performed by MPC employees. Although the testimony was confusing and uncertain on this point, it appears that taxpayer only paid MPC $9,500 to $10,000 for work its employees did on the remodel, even though as many as eight employees worked on the multi-year project. Deschner calculated total labor costs at $89,000, of which he received $25,000 to $35,000 in compensation for his services, with some of that coming from MPC, some from taxpayer herself, and some from another company, Magno Humphries, of which taxpayer is President and sole owner and Deschner is a building supervisor.[FN9] Taxpayer testified that she did not know which portions of Deschner's compensation for the remodel came from which of her companies and which came from her personally. Deschner testified that it was hard to make an accurate cost estimate given ****58** that taxpayer paid the bills for the remodel from several accounts and that some of the money went to him personally and some to MPC and outside contractors.[FN10] The confusion and uncertainty regarding labor costs was exaggerated by the lack of any budget for the remodel or a contract between taxpayer and either Deschner or MPC, which might have specified costs for labor and materials, how payments would be made, etc.

FN8. Although taxpayer testified that she did not know if she paid contractor rates, stating that instead she might have gotten some volume discounts on retail prices, the weight of her testimony and that of Deschner indicates that she paid contractor prices.

FN9. Magno Humphries is a vitamin company that leases land from Magno LLC, another company solely owned by taxpayer.

FN10. Deschner testified that he was paid as an employee of MPC until June 2002, and then by taxpayer personally until March 2003, from which point on he has been paid as an employee of Magno Humphries. Deschner did not know how many hours he worked on the remodel, although he stated that he sometimes worked 10-12 hours per day on it. As an employee of MPC, he was paid $2,200 every two weeks, and other MPC employees were paid $8 per hour.

***4** The court concludes that taxpayer's ultimate cost estimate is uncertain and unreliable given the necessary adjustments mentioned at trial, the discrepancy between taxpayer's figure and Gentzkow's figure, the incomplete and confusing nature of the evidence and testimony regarding how the remodel was paid for and by whom, and the close relationship between taxpayer and those who did the work, both in terms of the contractor discounts that taxpayer's company, MPC, received for materials, and in terms of the uncertain rates which taxpayer and MPC paid for labor. Accordingly, the court concludes that the cost approach is not an appropriate method to use in valuing taxpayer's property. The court therefore turns to sales comparison approach.

B. *The Sales Comparison Approach*

1. *Real Market Value*

Under the sales comparison approach, the value of a property is derived by “comparing the subject property with similar properties, called comparable sales.” Appraisal Institute, *The Appraisal of Real Estate* 63 (emphasis omitted). That comparison is based on many factors, and adjustments are made for any differences between the comparable sales and the subject property so that the appraiser can derive a value for the subject property. *Id.* at 63-64. “The sales comparison approach is most useful when a number of similar properties have recently been sold or are currently for sale in ****59** the subject property's market.” *Id.* at 63. Both parties agree that the sales comparison approach is helpful in determining the RMV of taxpayer's property; the court concurs.

Taxpayer's property is located in the Montclair neighborhood, which Gentzkow described as an established, exclusive residential development with good market appeal due to its location and lack of adverse conditions, as well as its large, quality, well-maintained homes. According to Gentzkow, taxpayer's property comprises more than 22,000 square feet, with extensive landscaping. After the remodel, the home comprised nearly 8,000 square feet with 14 rooms, including 5 bedrooms and 4.2 bathrooms. Much of the house was gutted and rebuilt, while the rest was updates, remodeled, and refurbished: the end product was custom built, high quality, and new. In addition, there was a three-car garage, a large, custom, and high-quality rear deck and patio, and an additional unit described by taxpayer as a gazebo and by the county as an entertainment pavilion, which contained a living room, bedroom, bathroom, and kitchen. The home was equipped with pergo, carpet, and marble floors, new fixtures and electrical service, a new roof, new siding and windows, and a new driveway. The kitchen had a full line of high-quality, built-in appliances, granite counter tops, custom cabinetry, and skylights. As of January 1, 2003, some of the work on the patio remained unfinished, with some fountains and retaining walls yet to be installed and landscaping work still to do. Although most of the homes in Montclair were built in the 1960's and 1970's, Gentzkow described taxpayer's remodeled residence as having an effective age of only five years.

***5** Gentzkow testified that the remodel rendered taxpayer's property uncharacteristic for the neighborhood and thus adversely impacted its marketability. Gentzkow also felt that marketability was adversely impacted by taxpayer's unique choices in custom features, such as bright red kitchen cabinets, and by the low quality of some features, such as the pergo flooring, which Gentzkow described as out of place in a home the size of taxpayer's. Finally, Gentzkow stated that the size of taxpayer's home was itself a negative factor because, in a neighborhood of 3,500 to 5,000 square foot ****60** homes, taxpayer's home was over-improved, rendering the excess space functionally obsolete.[FN11]

FN11. Functional obsolescence, a form of depreciation, "is caused by a flaw in the structure, materials, or design of the improvement when compared with the highest and best use and most cost-effective functional design requirements at the time of appraisal." Appraisal Institute, *The Appraisal of Real Estate* 403. The functional obsolescence at issue in this case, excessive square footage, is known as "superadequacy, which means that some aspect of the subject property exceeds market norms." *Id*. "It represents a cost without any corresponding increment in value or a cost that the increment in value does not meet." *Id*. at 404. Most superadequacies are difficult to cure, and they often incur additional expense such as higher heating costs. *Id*. at 411. Accordingly, they do not add to the value of a property, but usually detract from it. *Id*. at 411-12. Although functional obsolescence is generally considered in the cost approach, the concept has application in the sales approach insofar as the appraiser must make adjustments in value when comparing the subject property with comparable sales.

Gentzkow used three comparable sales in his appraisal of taxpayer's property. All three comparable sales are located in Montclair. Comparable G1 sold in November 2003 for $765,000; it is similar to taxpayer's property in lot size, landscaping, and the home's effective age, quality, and amenities;[FN12] however, the home is smaller: Gentzkow adjusted Comparable G1 upward $54,000 to equate it with taxpayer's property, concluding that it indicated a value for taxpayer's property of $819,000.

Comparable G2 sold in December 2003 for $682,000; its home is similar in effective age and quality; however, its lot is smaller, its landscaping inferior, and the home smaller with inferior amenities: Gentzkow adjusted it upward $84,300 for a value of $766,300. Comparable G3 sold in May 2003 for $559,100; it is similar in landscaping and home quality; however, its lot is smaller, and the home has an older effective age and is smaller with inferior amenities: Gentzkow adjusted it upward $148,075 for a value of $707,175. Weighing the values of the three adjusted comparable sales and comparing them to taxpayer's property, Gentzkow valued taxpayer's property at $750,000.

FN12. By amenities, the court means the size of the garage and the number of bedrooms, bathrooms, and fireplaces, etc.

The county's appraiser, Barbara Miller, used four comparable sales in her appraisal of taxpayer's property. Comparable M2 is located in Montclair, but the other three are located in a relatively similar neighborhood across the ****61** highway that abuts Montclair and has generally larger homes. Comparable M1 sold in October 2002 for $1,100,000; its home is similar in effective age and quality; however, its lot is larger, its landscaping inferior, and its home is smaller with inferior amenities: Miller adjusted it upward $181,200 for a value of $1,281,200. Comparable M2 sold in January 2002 for $995,000; its home is similar in effective age; however, its lot is larger, its landscaping inferior, and its home superior in quality but inferior in size and amenities: Miller adjusted it upward $227,980 for a value of $1,222,980. Comparable M3 sold in July 2003 for $867,500; its lot is much larger, its landscaping inferior, and its home inferior in size and amenities, and much inferior in effective age and quality: Miller adjusted it upward $204,650 for a value of $1,072,150. Comparable M4 sold in January 2002 for $810,000; its home is similar in effective age and amenities; however, its lot is larger, its landscaping much inferior, and its home much inferior in quality and size: Miller adjusted it upward $242,840 for a value of $1,052,840. Weighing the values of the four adjusted comparable sales and comparing them to taxpayer's property, Miller valued taxpayer's property at $1,200,000.

***6** At trial, Gentzkow criticized Miller's appraisal on several grounds. He contended that Miller was ill trained and inexperienced, that she made several mistakes, and that her numbers were misleading insofar as they were accurate. Gentzkow testified that Miller failed to make necessary adjustments for things such as functional obsolescence and the unique nature of taxpayer's property. Gentzkow stated that the nearby neighborhood in which most of Miller's comparable sales were located was nicer and contained larger, estate style homes. Gentzkow also noted that two of Miller's comparable sales sold for less their original asking prices (which were close to values Miller placed on them). Additionally, Gentzkow questioned how comparable Miller's comparable sales were, given that she made as many adjustments as she did; indeed, Gentzkow testified that Miller made so many adjustments so as to render her appraisal in violation of accepted professional appraisal standards. To support his own valuation, Gentzkow pointed to a May 2002 appraisal he had done on taxpayer's property for insurance purposes; at ****62** that time, he valued the property at $700,000. Gentzkow also pointed to another insurance appraisal by another appraiser in July 2004; that appraisal valued the property at $710,000.

On the other hand, Miller found several faults in Gentzkow's appraisal. She testified that she conducted in depth visits of each of her comparable sales and that she spoke with the owners; she also testified that she did the same for Gentzkow's comparable sales. In contrast, Gentzkow admitted that he had only taken pictures of his comparable sales. Miller stated that Gentzkow failed to adjust his comparable sales properly, given their low quality and the fact that they were each remodeled, some significantly, immediately after their sales. Miller also pointed out that Gentzkow, too, had used comparable sales from nearby neighborhoods in his May 2002 appraisal of taxpayer's property. Additionally, the court notes that BOPTA considered Comparable G2 when it valued taxpayer's property, concluding that Comparable G2 indicated a value for taxpayer's property of $987,000, substantially higher than the value Gentzkow reached. Other factors also weigh against Gentzkow's appraisal and in favor of Miller's. For instance, Deschner at one time told an agent of the county that the RMV of taxpayer's property was around $1,200,000. Finally, it is questionable why, if taxpayer's appraisers indicated values for the property between $700,000 and $750,000, land included, she insures her home alone for $780,000 (the land being valued by all parties and appraisers at just shy of $200,000).

The court finds that neither Gentzkow's nor Miller's appraisals were fully reliable or persuasive, although each provides much useful and reliable information. In the end, as is to be expected, Gentzkow appears to have chosen comparable sales that reflect a lower RMV for taxpayer's property than is appropriate, and Miller appears to have chosen comparable sales that reflect a higher RMV than is appropriate Weighing all the testimony and evidence presented, especially the comparable sales proffered by both parties, the court determines that an RMV of $950,000 is proper for taxpayer's property.

2. *Exception Value*

***7** The question that remains is the EV of taxpayer's property. As stated above, the EV of a property is the amount ****63** by which the RMV of the new improvements to it exceeds the RMV of any retirements. ORS 308.153(2)(a). In making that determination, care must be taken to ensure that only allowable improvements are included. Those improvements are defined as "changes in the value of property as a result of" various activities listed in ORS 308.149(5)(a), in this case, remodeling. ORS 308.149(5)(a)(A); OAR 150-308.149-(A)(1)(d). Other improvements are not to be included in the calculation of EV; those include general ongoing maintenance and repair, and minor construction. ORS 308.149(5)(b); *see also* ORS 308.149(6) (defining "minor construction" as "additions of real property improvements, the [RMV] of which does not exceed $10,000 in any assessment year"); *Hoxie v. Dept. of Rev.,* 15 OTR 322, 326 (2001) (stating that things such as cleaning and painting cannot be included in the EV). Moreover, the calculation of EV must also exclude factors such as changes in inflation, market demand, and construction codes. *Hoxie,* 15 OTR at 326. The court will refer to those improvements that must be included in the calculation of EV as new improvements. All other factors, which cannot be included in the calculation of EV, will be termed either minor or routine improvements, or market trends.

Taxpayer argues that, in order to properly account for the distinction between new improvements, on the one hand, and minor or routine improvements and market trends on the other hand, the remodel must be broken down into its component parts. Under that theory, the painting and cleaning done by taxpayer would not count toward the EV of her property, nor would those changes that constitute merely minor construction. There are two ways that taxpayer's theory could apply in practice. One the one hand, the court could look at the entire remodel and ask which aspects of it were minor or involved routine cleaning or maintenance, excluding those from the calculation of EV, and which aspects were substantial enough to constitute new improvements, including those in the calculation. On the other hand, the court could view the remodel as a series of several smaller projects, some of which involved new improvements and some of which did not. Taxpayer asserts that there were approximately 30 such projects.

In *Hoxie,* the court described the work done by the taxpayer as comprising five projects: a new entry; a new ****64** staircase; a new lobby; various changes involving wiring, plumbing, and the like; and the "cleaning and painting of the exterior walls and windows." *Id.* at 326. The court counted the first four projects towards the taxpayer's EV, but excluded the cleaning and painting. *Id. Hoxie* is not comparable to the present case. In that case, there were a handful of discrete, easily distinguished projects, such that the minor and routine improvements could be segregated from the new improvements. Here, taxpayer effectively rebuilt half of her home, created a large new addition, and significantly updated the rest of the home and the landscaping as well-all as part of one comprehensive project. Although the work undoubtedly could be broken down into several small steps, such an approach would not accurately reflect the nature of the work done on taxpayer's property, and would lead to a distorted conception of EV. There was nothing minor or routine about taxpayer's remodel.

***8** Another point of contention between the parties concerns the concept of retirements. ORS 308.153(2)(a) requires that the RMV of the retirements involved in taxpayer's remodel be subtracted from the RMV of the additions to determine the ultimate value of new improvements that is the EV. Retired property is property that is "voluntarily retired or removed from service or use by the owner." *Chart Development Corp. v. Dept. of Rev.,* 17 OTR 170, 175 (2003). The parties differ on how to value the retirements from taxpayer's property.

Taxpayer argues that retirements should be valued based on the RMV of taxpayer's property, using the following calculations. Beginning with the $450,000 [FN13] that taxpayer paid for the property in June 2000, she would estimate that, at that time, the RMV of the land was $150,000 and the RMV of the improvements was $300,000. Taxpayer then contends that, because approximately 75% of the home was retired during the remodel, the value of the retirements for the entire remodel was 75% of $300,000, or $225,000. Taxpayer would then apply approximately half of that figure to tax year 2003-04, because approximately half of the remodel ****65** work was done between January 1, 2002, and January 1, 2003.

FN13. Taxpayer rounded the actual sale price of $452,500 to $450,000 for purposes of this argument.

The county, on the other hand, would value retirements based on their salvage value, the value taxpayer could obtain for them on the market. *See* ORS 308.153(2)(a) (inquiring into the "real market value of retirements from the property tax account"); ORS 308.205(1) (defining "[r]eal market value" as "the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as of the assessment date for the tax year"); Appraisal Institute, *The Dictionary of Real Estate Appraisal* 256 (4th ed 2002) (defining "salvage value" as "[t]he price expected for [property] that is removed from the premises usually for use elsewhere"). Because, as Deschner testified, taxpayer either reused all of the old materials, such that they were not actually retired, or threw them away as garbage, such that they were not sold, the county argues that the value of taxpayer's retirements is zero. Indeed, as the county points out, that taxpayer did not sell any of the materials she removed from her property indicates that she did not find anyone willing to buy them.

The court begins by noting the difficulty with calculating a value for retirements in the residential property context. The concept is usually employed with regard to industrial property such as machinery and equipment. *See Astoria Plywood Corp v. Dept. of Rev.,* 6 OTR 40, 46 (1975) (calculating retirements for industrial machinery and equipment); OAR 150-308.205-(D)(5)(b) (requiring reports of retirements as basic appraisal information for the assessment of industrial property). Even as applied to residential property, the concept would be more workable if the case involved a distinct physical unit, such as a detached garage or woodshed, that was demolished or otherwise retired. In such a situation, the RMV of the unit could be approximated, and that value could be subtracted from the RMV of any new improvements to the property as a whole. Here, however, much of the property that was retired is now part of the property that has become new improvements. It is more difficult to place a value on 75% of taxpayer's home and grounds than merely to take 75% of the RMV of the improvements pre-remodel, as **66 taxpayer suggests. For instance, some portions of the improvements are more valuable than others. Additionally, it may be difficult to assess the RMV of just a retired kitchen or bedroom without taking into account the value of other, integrated improvements. In this case, the difficulty is compounded by the amount of property that taxpayer either refurbished or converted to different uses within the house or on the property.

***9** Ultimately, taxpayer bears the burden of proof in this case. ORS 305.427. That includes the burden of proving the extent and RMV of any retirements. Taxpayer has not provided such proof either in the form of an appraisal of those portions of her property that she claims as retirements, or evidence that she sold any materials once they left her property, or that she had obtained goods or services in kind, or any other form. Regardless of how retirements are valued, taxpayer has failed to prove any amount of retirements in this case. Because there is no evidence in the record of the value of taxpayer's retirements, the court cannot find that they have any value.[FN14]

FN14. Accordingly, it is not necessary to decide whether taxpayer's or the county's method of valuing retirements is correct. The court notes, however, that the county's approach seems inconsistent with ORS 308.153(2)(a), which appears to focus on a value already reflected in the account that is then removed or destroyed. *See also* ORS 308.205(1) (defining RMV as “the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction *occurring as of the assessment date for the tax year”* ) (emphasis added).

Viewing taxpayer's remodel as one project without any minor or routine improvements or retirements, it is nonetheless important to include in the calculation of EV only those changes that occurred between January 1, 2002, and January 1, 2003. *Hoxie,* 15 OTR at 327. As stated earlier, taxpayer had completed approximately half of the remodel by January 1, 2002, and the remodel was almost finished by January 1, 2003. The RMV for the 2002-03 tax year was $839,270 and the EV was $340,510. Because the court has found that the RMV of taxpayer's property for the 2003-04 tax year is $950,000, the increase in RMV between January 1, 2002, and January 1, 2003, was only $110,730. Part of that increase in RMV is due not to taxpayer's remodel, but rather **67 to changes in interest rates, demand, and other market factors that cannot be included in the calculation of EV. Gentzkow's appraisal report states that general market appreciation in the area of taxpayer's property was 4.5% in 2003.[FN15] The court finds that Gentzkow's figure accurately represents the change in value of taxpayer's property that was not due to the remodel, but rather to market trends, and that, therefore, cannot be included in the calculation of EV.

FN15. That figure includes any appreciation in the value of the land that, along with the house, comprises taxpayer's property.

There are two ways to account for the 4.5% market appreciation. One method is to first increase the 2002-03 RMV of taxpayer's property by 4.5%. That calculation shows what the RMV of taxpayer's property for tax year 2003-04 would likely be without any improvements. Here, $839,270 multiplied by 1.045 is $877,037. The difference between that value and $950,000, the ultimate RMV of taxpayer's property with the improvements, is $72,963, which must, therefore, be the RMV of the new improvements, or the EV of taxpayer's property. The second method is to subtract from the total increase in RMV between tax years 2002-03 and 2003-04

($110,730) an amount equal to 4.5% of the 2002-03 RMV, $839,270. $110,730 minus $37,767 is $72,963, the same value as derived under the first method. Accordingly, the court finds that an EV of $72,963 is proper for taxpayer's property for tax year 2003-04.[FN16]

FN16. Miller calculated an EV of $391,270. That figure is too large, both because Miller overvalued the RMV of taxpayer's property and because the RMV of new improvements cannot exceed $110,730, the amount of the increase in the RMV of taxpayer's property between January 1, 2002, and January 1, 2003.

IV. CONCLUSION

After carefully evaluating all of the evidence and testimony presented, the court concludes that the RMV of the subject property for tax year 2003-04 is $950,000 and the EV is $72,963. To determine the MAV for taxpayer's property, the EV must be multiplied by the CPR (0.749), resulting in an MAV for new improvements of $54,649, which must then be added to the MAV as derived under ORS 308.146 (here, $800,557). ORS 308.153(1). That calculation results in an MAV for taxpayer's property of $855,206. Because the AV is ****68** the lesser of the MAV or RMV, ORS 308.153(3), and here the MAV is less than the RMV, the AV for taxpayer's property for tax year 2003-04 is $855,206. The county shall correct the assessment and tax rolls to reflect the above stated values for taxpayer's property, with any refund due to be promptly paid with statutory interest pursuant to ORS 311.806 and ORS 311.812.

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Judges and Attorneys(Back to top)

Judges

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