

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax Deferral

HANNAH C. LANDERS,)
)
Plaintiff,) TC-MD 150391C
)
v.)
)
MARION COUNTY ASSESSOR,)
)
Defendant,)
)
and)
)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendant-Intervenor.) **FINAL DECISION OF DISMISSAL**

This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered October 29, 2015. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. *See* TCR-MD 16 C(1).

This matter is before the court on the motions of Defendant Marion County Assessor (the County) and Defendant-Intervenor Department of Revenue (the Department) requesting that the Complaint be dismissed.¹

The court addressed the dismissal requests at a telephone case management hearing held October 26, 2015. Plaintiff appeared at that proceeding on her own behalf. The County was represented by Kay Brandon. The Department was represented by Colleen Tarr. Kathy Stevens also participated on behalf of the Department.

¹ The County’s motion to dismiss was made in its Answer, filed August 27, 2015. The Department’s motion to dismiss was made in its Motion to Intervene/Answer, filed September 16, 2015.

Plaintiff filed an Amended Complaint August 20, 2015, requesting approval to make monthly payments on the outstanding taxes owed on her home in Jefferson, Oregon. (Ptf's Amended Compl at 1-2.) The taxes had been deferred under Oregon's homestead property tax deferral program, ORS 311.666 to 311.701.² (Def-Inv's Mot to Intervene/Answer at 1.) The Department disqualified the property from the homestead deferral program on September 3, 2014. (*Id.*)

The County moved to dismiss Plaintiff's Complaint because "the senior deferral is a responsibility of the Department of Revenue." (Def's Answer at 1.) The Department moved to dismiss because "[p]laintiff is not requesting reinstatement to the [homestead property tax deferral] program, and is not appealing [the Department's] decision" to disqualify the property from deferral. (Def-Inv's Mot to Intervene/Answer at 1.)

The Magistrate Division has previously held that appeals related solely to tax collections with no issue involving the underlying assessment are not within the court's subject-matter jurisdiction. *See Mohtadi v. Department of Revenue*, TC-MD 130543C, WL 840063 at *1 (Mar 4, 2014) (stating that where no assessments or adjustments were made to the taxpayer's return, "[i]ssues regarding the collection of taxes are not within the purview of the court's jurisdiction under ORS 305.410."); *see also Greichus v. Coos County Assessor*, TC-MD 140349N, WL 1089741 at *2 (Mar 10, 2015) (holding that the court did not have subject-matter jurisdiction to consider plaintiff's appeal of foreclosure proceedings where plaintiff did not challenge the underlying tax assessment).

Based on those prior rulings of this court, the Department's request for dismissal is granted because the appeal pertains solely to whether Plaintiff can make monthly installment

² The court's references to the Oregon Revised Statutes (ORS) are to 2013.

payments as opposed to payment in full. That is a matter involving collections and is beyond the jurisdiction of this court. The court's ruling on the Department's motion renders the County's motion moot. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant-Intervenor's request for dismissal is granted and Plaintiff's appeal is dismissed.

IT IS FURTHER DECIDED that Defendant Marion County Assessor's request for dismissal is dismissed as moot.

Dated this ____ day of November 2015.

DAN ROBINSON
MAGISTRATE

If you want to appeal this Final Decision of Dismissal, file a complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your complaint must be submitted within 60 days after the date of the Final Decision of Dismissal or this Final Decision of Dismissal cannot be changed. TCR-MD 19 B.

This document was filed and entered on November 17, 2015.