

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DON S. RICHTER,)	
)	
Plaintiff,)	TC-MD 230044N
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR)	
)	SUPPLEMENTAL DECISION ON
Defendant.)	COSTS AND DISBURSEMENTS

This matter came before the court on Plaintiff’s Statement for Costs and Disbursements, filed March 27, 2024, seeking an award of \$50 for the court filing fee. On March 28, 2024, Defendant filed a Response and Objection, disputing that Plaintiff is the prevailing party because Plaintiff’s 2020-21 tax year appeal was denied and because the court “did not accept the primary argument put forth by Plaintiff in his appeal” for the 2021-22 and 2022-23 tax years. Defendant argues that the court “lacks authority to award either party for costs and disbursements” because the court’s Decision does not contain “supporting findings and conclusions.” Plaintiff replied by letter filed March 29, 2024, citing to Tax Court Rule-Magistrate Division (TCR-MD) 16 as allowing a prevailing party to recover the filing fee. He noted that, although the court dismissed his 2020-21 tax year appeal, his appeal was “granted in part for the 2021-22 and 2022-23 tax years.”

I. STATEMENT OF FACTS

The court entered a decision on the merits in this case on March 15, 2024. Although the court dismissed Plaintiff’s appeal for the 2020-21 tax year, the court granted in part Plaintiff’s appeal for the 2021-22 and 2022-23 tax year. Specifically, the court decided that “Defendant’s error correction notice for those years is void and without effect.”

II. ANALYSIS

The issue presented is whether the court may award Plaintiff costs and disbursements in the amount of \$50 for his filing fee.

As Plaintiff correctly noted, TCR-MD 16 B allows a prevailing party to recover costs and disbursements. A party's request for costs and disbursements must be filed within 14 days after a decision is entered. TCR-MD 16 C(1). The court's statutory authority to award costs and disbursements is found in ORS 305.490(3) (2023). *See Wihtol v. Dept. of Rev.*, 21 OTR 260 (2013) (concluding magistrates have authority to award costs and disbursements under *former* ORS 305.490(2)).¹ A "prevailing party" includes "a party who successfully defends against another party's request for affirmative relief." *Ellison v. Dept. of Rev.*, 362 Or 148, 165, 404 P3d 933 (2017), *modified on recons*, 362 Or 527, 412 P3d 201 (2018).²

Plaintiff's Statement for Costs and Disbursements complies with TCR-MD 16. Plaintiff is a prevailing party with respect to his appeal of Defendant's error correction notice for the 2021-22 and 2022-23 tax years because the court decided those notices were void and without effect. Accordingly, the court grants Plaintiff's request for costs and disbursements in the amount of \$50 for his court filing fee. Now, therefore,

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¹ ORS 305.490 was amended between 2013 and 2023, resulting in the language in *former* subsection (2) appearing in subsection (3) in the 2023 version.

² *Ellison* concerned a different subsection of ORS 305.490, which allows the tax court judge to award attorney fees to a taxpayer when the court "finds in favor of the taxpayer[.]" 362 Or at 160. The court found "some support" to conclude that the standard was synonymous with "prevailing party." *Id.* at 164. Under either standard, the court upheld an award of attorney fees to taxpayer where taxpayer failed to prove any reduction in the property value, but successfully defended against the county's request to increase the value. *See id.* at 151-52.

IT IS THE DECISION OF THIS COURT that Plaintiff's request for costs and disbursements in the amount of \$50 is granted.

Dated this _____ day of April 2024.

If you want to appeal this Decision, 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 this Decision or this Decision cannot be changed. TCR-MD 19 B.

This document was signed by Presiding Magistrate Allison R. Boomer and entered on April 1, 2024.