

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

LINN THI MINH TRAN,)	
)	
Plaintiff,)	TC-MD 150388N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION

The court entered its Decision on February 9, 2016. On February 16, 2016, Plaintiff filed a letter dated February 9, 2016, and additional documents with the court. Tax Court Rule-Magistrate Division (TCR-MD) 18 C provides, in part, that “[f]ollowing issuance of a decision, * * * the court will not accept motions for reconsideration or to reopen the record[.]” Accordingly, the court will not consider the additional arguments and evidence presented by Plaintiff after the court issued its Decision.

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

Plaintiff filed her Complaint on July 30, 2015, challenging Defendant’s “New Application Denial” letter dated April 7, 2015. Defendant denied Plaintiff’s application for Homestead Property Tax Deferral (Homestead Deferral), for property identified as Account 05011636 (subject property), for the 2015-16 tax year. In its denial letter, Defendant stated three grounds for denial of Plaintiff’s application for Homestead Deferral: (1) the subject property is owned jointly by three owners, but they did not all reside in the subject property; (2) Plaintiff was not “receiving or [] eligible to receive federal Social Security Disability benefits” as of

April 15 of the year for which the Homestead Deferral was claimed; and (3) “[t]he real market value of [the subject] property exceeds the limit for [the] county.” (Ptf’s Compl at 5; Def’s Resp at 1.) The parties agreed to submit written arguments and evidence on the issue of Plaintiff’s qualification for Homestead Deferral for the 2015-16 tax year. Plaintiff filed arguments and evidence on October 13, 2015, and additional evidence on November 4, 2015.

In its Order filed December 15, 2015,¹ the court concluded that the subject property was jointly owned by Plaintiff, Minh Duy Tran, and Hung Pham. As a result, Plaintiff must demonstrate that all three joint owners lived at the subject property or were absent from the subject property by reason of health. Plaintiff established that Minh Duy Tran was absent from the subject property by reason of health. However, she failed to offer any evidence that Hung Pham resided at the subject property or was absent by reason of health. Plaintiff must further demonstrate that one of the subject property’s owners received or was eligible to receive federal Social Security disability benefits as of April 15, 2015.

In its Order, the court set a deadline of January 15, 2016, for Plaintiff to provide additional information as follows: “(1) evidence that Hung Pham resides in the subject property or that she was absent from the subject property by reason of health; and (2) a benefit verification letter or other evidence demonstrating that any one of the subject property co-owners received or was eligible to receive federal Social Security disability benefits as of April 15, 2015.” (Or at 7, Dec 15, 2015.)² The court’s Order filed December 15, 2015, is incorporated herein.

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¹ The court’s Order filed December 15, 2015, is hereby incorporated in this Decision.

² An issue remains whether the subject property’s 2014-15 real market value exceeded the applicable limit for the county. However, the court need not address the real market value issue if the deferral applicants do not meet the statutory requirements.

In response to the court's Order, on January 19, 2016, Plaintiff provided a copy of a statement of Social Security benefits received by Minh D. Tran and a copy of a bankruptcy discharge order. After review of the documents submitted by Plaintiff, the court concludes that the documents are insufficient to demonstrate: (1) that Hung Pham either resides in the subject property or that she was absent by reason of health; or (2) that the Social Security benefits received by Minh D. Tran are disability benefits. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is denied.

Dated this ____ day of March 2016.

ALLISON R. BOOMER
MAGISTRATE

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

This document was filed and entered on March 2, 2016.