

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

BASILIO MASALIGIN,)	
)	
Plaintiff,)	TC-MD 160125N
)	
v.)	
)	
CLACKAMAS COUNTY ASSESSOR,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL¹

Plaintiff filed his Complaint on April 4, 2016, challenging Defendant’s Omitted Property Notice, adding the value of omitted property for the 2010-11 through 2015-16 tax years, for property identified as Account 01016322. (Compl at 3.) A case management conference was held on May 10, 2016, during which the parties discussed Plaintiff’s appeal and Defendant’s request for a site inspection. Defendant requested that Plaintiff’s appeal be dismissed if Plaintiff refused to allow a site inspection. The court permitted Plaintiff two weeks to determine whether he would allow a site inspection of the subject property or withdraw his appeal. On May 12, 2016, the court issued a Journal Entry reminding Plaintiff of his deadline and citing the Oregon Supreme Court’s ruling regarding site inspections in *Poddar v. Dept. of Rev.*, 328 Or 552, 562, 983 P2d 527 (1999).

On May 26, 2016, Plaintiff filed a letter stating his decision that “Defendant will not be permitted to inspect the subject property” and noting “it would probably be appropriate that my appeal regarding valuation be withdrawn.” (Ptf’s Ltr at 1, May 26, 2016.) In that letter, Plaintiff identified “three remaining concerns.” (*Id.* at 1-2.) The first concern was an alleged square

¹ This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered June 16, 2016. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. *See* Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

footage error; the second concern was an error in the subject property's site size; and the third concern was a request for a payment plan. (*Id.*)

On June 6, 2016, Defendant filed a letter reiterating its request that Plaintiff's appeal be dismissed for failure to allow a site inspection and responding to Plaintiff's three concerns. With respect to Plaintiff's first concern, Defendant responded that it "would be happy to make any necessary corrections to these measurements via a site inspection." (Def's Ltr at 1, June 6, 2016.) With respect to Plaintiff's second concern, Defendant responded that the subject property site size was corrected effective January 1, 2007, prior to the omitted property assessment at issue in this case. (*Id.* at 2.) With respect to Plaintiff's third concern, Defendant described the statutory scheme for payment of additional taxes assessed on omitted property, noting the first payment is not due until November 15, 2016. (*Id.*)

The only issues properly before the court in this appeal concern the correct size and real market value of the subject property.² As discussed in the court's Journal Entry, a site inspection is likely to reveal relevant information on those issues and Plaintiff's refusal to allow a site inspection would impede Defendant's ability to defend against Plaintiff's Complaint. As a result, the court concludes that Defendant's motion to dismiss should be granted. Now, therefore,

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² The court is not aware of any authority by which it may revise the deadlines for payment of Plaintiff's 2016-17 property tax bill, or otherwise establish a payment plan for Plaintiff's 2016-17 property tax bill.

IT IS THE DECISION OF THIS COURT that Defendant's motion to dismiss is granted.

Plaintiff's appeal is dismissed.

Dated this ____ day of July, 2016.

ALLISON R. BOOMER
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 July 6, 2016.