

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

LINCOLN COUNTY ASSESSOR,)	
)	
Plaintiff,)	TC-MD 170074G
)	
v.)	
)	
MARY L. PRINCE,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL ¹

Plaintiff filed a complaint appealing the order of the Lincoln County Board of Property Tax Appeals that reduced the 2016–17 tax roll real market value of property identified as Account R524365. Plaintiff attached a certificate of service to its complaint, which stated that the complaint had been served upon Defendant by “U.S. Mail, postage prepaid.”

County assessors and other nontaxpayers who file complaints in this court must comply with the service requirements of ORS 305.560(3) and Tax Court Rule–Magistrate Division (TCR–MD) 1 C(2).² ORS 305.560(3) requires nontaxpayers to serve their complaints on taxpayers “by certified mail within the period for filing an appeal” and to file with the court “an affidavit showing such service.” TCR–MD 1 C(2) specifies that the nontaxpayer’s affidavit or declaration “must include a copy of the return receipt as an attachment.”

The court issued its first Order to Show Cause on March 24, 2017, stating that “Plaintiff’s certificate of service was not signed under oath or under penalty of perjury, and did not comply with the requirements of TCR–MD 1 C(2).” In response, Plaintiff filed another certificate of service, dated March 27, 2017. That certificate showed service upon Defendant by “U.S. Mail,

¹ This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered April 26, 2017. 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).

² The court’s references to the Oregon Revised Statutes (ORS) are to 2015.

postage prepaid, certified mail” and included a copy of a certified mail receipt. However, it was not signed under oath or under penalty of perjury.

The court issued its Second Order to Show Cause on April 10, 2017. The court’s second order allowed 14 days for Plaintiff to file an affidavit or declaration, stating:

“Plaintiff’s certificate of service was not in the form of an affidavit or a declaration made under penalty of perjury. The form of declaration accepted by the court is prescribed by Tax Court Rule (TCR) 1 G. To proceed with its appeal, Plaintiff must file either an affidavit or a declaration—not merely a certificate of service.”

The court’s second order also stated that Plaintiff’s Complaint would be dismissed if Plaintiff did not file such an affidavit or declaration. In response, Plaintiff once again filed its certificate of service dated March 27, 2017.

Plaintiff has failed to submit an affidavit or declaration under penalty of perjury showing service on Defendant, as required by statute, rule, and the court’s two orders. Under such circumstances, dismissal is appropriate. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff’s Complaint is dismissed.

Dated this ____ day of May, 2017.

POUL F. LUNDGREN
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 May 16, 2017.