

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

RUDY ARROYO,	)	
	)	
Plaintiff,	)	TC-MD 180398N
	)	
v.	)	
	)	
DOUGLAS COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>ORDER OF DISMISSAL</b>

This matter came before the court on Defendant’s Answer & Motion to Dismiss (motion), filed January 11, 2019, requesting that Plaintiff’s Complaint be dismissed because it was not timely filed within 90 days of his receipt of Defendant’s disqualification notice. A case management conference was held on January 29, 2019, during which the parties agreed to a schedule to file additional briefings on Defendant’s motion. On February 19, 2019, Defendant filed a copy of an email from Plaintiff, evidently constituting his response to the motion. Defendant waived its reply. This matter is now ready for the court’s determination.

A. *Factual and Procedural Background*

Plaintiff filed his Complaint on December 21, 2018, challenging the assessment of taxes on property identified as Account R73471 (subject property) for the 2013-14 through 2018-19 tax years. (Compl at 1.) He wrote that the assessment was in error because “present owner should NOT be responsible for taxes 2013-2017. Property should have been tax reassessed in 2013 upon final approval of build, utility, etc. \* \* \* Owner should not be responsible to pay unzoned farm penalty of 6,191.49. County should have reassessed property (nonfarmed) starting year 2013-2017.” (*Id.*) Defendant responded that it sent a notice of disqualification to Plaintiff on April 30, 2018, which “advised the plaintiff that he was required to appeal to the Magistrate

Division within 90 days of his receipt of that notice.” (Def’s Ans & Mot at 2, Att 1 (copy of notice disqualifying 1.00 acre of the subject property from non-exclusive farm use special assessment due to the change in use to a residential homesite).) Defendant sent the notice to Plaintiff by certified mail and Plaintiff signed the return receipt. (*Id.*, Att 2 (copies of certified mail receipt and return receipt).) The signed return receipt was received by Defendant and scanned into its records on May 18, 2018. (*Id.*, Att 3 (copy of scan from Defendant’s records).)

Plaintiff’s email to Defendant, dated February 14, 2019, stated the he “feels that it is unfair that he has to assume the tax payment. However, we are not sure what we can do at this point, other than pay the taxes.”<sup>1</sup> (Def’s Ltr at 2, Feb 19, 2019.)

B. *Analysis*

A taxpayer may appeal a disqualification from farm use special assessment to this court “within the time and in the manner provided in ORS 305.404 to 305.560.” ORS 308A.718(4).<sup>2</sup> ORS 305.560(1)(a) provides that an appeal under ORS 305.275 may be taken “within the time required under ORS 305.280.” ORS 305.275(1)(a)(C) permits a person to appeal from a denial of special assessment by the county assessor. ORS 305.280(1) states, in pertinent part:

“Except as otherwise provided in this section, an appeal under ORS 305.275(1) or (2) shall be filed within 90 days after the act, omission, order or determination becomes actually known to the person, but in no event later than one year after the act or omission has occurred, or the order or determination has been made.”

Here, Defendant disqualified 1.00 acre of the subject property on April 30, 2018, and Plaintiff received notice of that disqualification no later than May 18, 2018. Plaintiff’s Complaint was filed on December 21, 2018, which is more than 90 days after Plaintiff received actual

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<sup>1</sup> Although the email signature block identifies Plaintiff as the sender, the email address appears to belong to Jackie Corey Holtham, who is not a party but appeared with Plaintiff as his partner at the case management conference. (Def’s Ltr at 2, Feb 19, 2019.)

<sup>2</sup> The court’s references to the Oregon Revised Statutes (ORS) are to 2017.

knowledge of the disqualification. Defendant's motion must be granted. Now, therefore,

IT IS ORDERED that Defendant's Motion to Dismiss is granted. Plaintiff's Complaint is dismissed.

Dated this \_\_\_\_ day of March 2019.

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ALLISON R. BOOMER  
MAGISTRATE

***This is an order disposing of all issues pursuant to Tax Court Rule – Magistrate Division 16 C(1). The court will issue a decision after waiting 14 days to determine whether there is a dispute about costs and disbursements. Errors in this order may be challenged by appealing the court's decision. See TCR-MD 19.***

***This document was signed by Magistrate Allison R. Boomer and entered on March 5, 2019.***