

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

NICOLYNN PROPERTIES, LLC,)	
)	
Plaintiff,)	TC-MD 110802N
)	
v.)	
)	
BENTON COUNTY ASSESSOR,)	
)	
Defendant,)	
)	
and)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant-Intervenor.)	DECISION OF DISMISSAL

This matter is before the court on the Department of Revenue’s (department) Motion to Dismiss, filed December 20, 2011. Plaintiff filed its appeal on May 25, 2011, challenging the Benton County Assessor’s (county) notices, dated February 2, 2011, and February 25, 2011, making changes to the tax roll for tax years 2006-07 through 2010-11. On November 14, 2011, Plaintiff filed a Motion for Summary Judgment and a Motion to Amend Complaint “adding the additional procedural grounds for relief that [the county] failed to provide proper notice under ORS 311.219.” Oral argument is scheduled in this matter for January 30, 2012.

The department’s Motion to Dismiss states that the county “learned that the February 2, 2011, changes were made without following applicable statutory procedure. Accordingly, in a Notice dated December 1, 2011, and mailed to [P]laintiff no later than December 6, 2011, the [county] has indicated that the February 2, 2011, changes that were the subject of [this appeal] have been reversed. Any taxes that had been paid related to the subject corrections will be

promptly refunded with statutory interest if applicable.” (Inv’s Mot to Dismiss at 1-2 (citation omitted).) Citing ORS 305.275 and *Kaady v. Dept. of Rev.*, 15 OTR 124, 125 (2000), the department requests that Plaintiff’s Complaint be dismissed without prejudice because “[P]laintiff is no longer aggrieved and the case is moot.” (*Id.* at 2.)

As of the date of this Decision, Plaintiff has not filed a response to the department’s Motion to Dismiss. The county has provided Plaintiff with its requested relief and there are no additional issues pending in this matter. Accordingly, the court finds that the department’s Motion to Dismiss should be granted. Now, therefore,

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

IT IS FURTHER DECIDED that oral argument set for January 30, 2012, is canceled.

Dated this ____ day of January 2012.

ALLISON R. BOOMER
MAGISTRATE PRO TEMPORE

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 the Decision or this Decision becomes final and cannot be changed.