

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

KIM R. FOX,)	
)	
Plaintiff,)	TC-MD 111109C
)	
v.)	
)	
WASHINGTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s request for dismissal of Plaintiff’s appeal based on an asserted lack of statutory authority to grant the relief Plaintiff has requested. The court addressed Defendant’s dismissal request with the parties during a telephone case management hearing held December 13, 2011. Plaintiff appeared on her own behalf. Defendant was represented by two employees: Denise Terry and Steve Harris.

Based on information contained in the pleadings and statements made during the December 13, 2011, proceeding, the court will set forth the relevant facts.

The appeal stems from an omitted property assessment made by Defendant that increased the real market value (RMV) and assessed value (AV) of certain real property owned by Plaintiff and identified in the assessor’s records as Account R782987 for tax years 2008-09, 2009-10, and 2010-11. The increase in value was based on a major remodel Plaintiff made to the property in 2006 and 2007 that Defendant did not become aware of until 2011. The assessment was made under the provisions of ORS 311.205 through ORS 311.235.¹

Defendant increased the property’s RMV from \$263,360 to \$332,150 for the 2008-09 tax year, from \$243,430 to \$320,130 for the 2009-10 tax year, and from \$231,610 to \$304,750 for

¹ All references to the Oregon Revised Statutes (ORS) are to 2009.

the 2010-11 tax year. (Ptf's Compl at 3.) The increase in value resulted in an increase in back taxes for the years at issue totaling \$2257.14. (*Id.*) The taxes were added pursuant to ORS 311.223(1).

Plaintiff timely appealed from the assessment, requesting that the additional taxes imposed by Defendant be removed due to financial hardship. Plaintiff stated in her appeal that she was not disputing the newly increased values. (Ptf's Compl at 10.) Plaintiff explained that she purchased the property in 2006 for investment reasons. Plaintiff remodeled the property, completing the project in 2007. After the remodel was completed, Plaintiff listed the property for sale for \$399,000. Due to the sagging economy, Plaintiff was unable to sell the home. In order to avoid losing money, Plaintiff decided to rent the house. Plaintiff determined the amount of rent to charge based, in part, on the then-existing property taxes. The retrospective value and tax increase poses a financial hardship on Plaintiff.

Plaintiff is one of many people in Oregon and elsewhere in the country negatively impacted by the drastic decline in the real estate market. However, the increase in property taxes in this case was the result of changes Plaintiff made to the property that increased the property's value; changes the assessor's office did not become aware of for several years. The increased value and resulting taxes were added to the rolls in accordance with applicable law. There is no statutory authority for this court to grant a discretionary waiver of the taxes imposed. Accordingly, Defendant's request for dismissal is well taken. Now, therefore,

///

///

///

///

IT IS THE DECISION OF THIS COURT that Defendant's request for dismissal is granted and Plaintiff's Complaint is hereby dismissed.

Dated this ____ day of December 2011.

DAN ROBINSON
MAGISTRATE

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.

This document was signed by Magistrate Dan Robinson on December 16, 2011 . The Court filed and entered this document on December 16, 2011.