

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

RAINSWEET, INC.)	
and FARM CREDIT LEASING SERVICES,)	
INC.,)	
)	
Plaintiffs,)	TC-MD 120019C
)	
v.)	
)	
MARION COUNTY ASSESSOR)	
and DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendants.)	DECISION OF DISMISSAL

This matter is before the court on Defendant Department of Revenue’s (Department) Motion to Dismiss (Department Motion) this appeal for failure to comply with the court’s Order Compelling Discovery (Order), filed July 16, 2012, and Defendant Marion County Assessor’s (County) Motion to Dismiss (County Motion) for failure to submit an Amended Complaint, filed July 18, 2012.

Plaintiffs appeal the 2011-12 roll value of industrial property identified as Accounts R26673, R339457, and P118850. A case management conference (CMC) was held on April 23, 2012, during which Plaintiffs agreed to provide discovery information to the Department by July 6, 2012. (Department Mot at 2.) Additionally, Plaintiffs agreed to subsequently file an Amended Complaint or letter specifying the values requested for each account under appeal. (County Mot at 2.)

Pursuant to Tax Court Rule-Magistrate Division (TCR-MD) 11, Defendant filed a Motion for an Order of Discovery on June 19, 2012, and simultaneously submitted a Motion to Compel Discovery (collectively “discovery motions”), both relating to information previously requested

from Plaintiffs at the April 23, 2012, CMC and through informal discovery methods. On July 5, 2012, the court issued an Order granting the Department's Motion for an Order of Discovery. Based upon the Department's "numerous subsequent attempts [to] contact Plaintiff[s] so that Defendant could obtain the requested documents[,]” to which Plaintiffs did not respond, the court also granted the Department's Motion to Compel Discovery to allow the Department to swiftly obtain the information requested in its discovery motions. (Order at 1-2.) The Order directed Plaintiffs to produce the information to the Department no later than July 11, 2012. (*Id.* at 2.)

On July 16, 2012, the Department filed the Department Motion, requesting dismissal of this appeal pursuant to TCR-MD 6, "for lack of prosecution evidenced by repeated failures to comply with the court's directives and orders." (Department Mot at 1.) Specifically, the Department seeks dismissal because "[P]laintiff[s] [have] not provided valuation materials to [the Department] * * * [have] not specified the values sought for each tax account, * * * and [have] not produced documents in discovery by the deadline established by the court." (*Id.* at 5.) The Department notes that "[n]o documents were received by [the Department] by July 11, 2012, as ordered by the court, nor have any been received subsequently." (*Id.* at 3.)

The County joined the Department's request to dismiss by filing the County Motion on July 18, 2012, moving for dismissal due to Plaintiffs' failure to submit "either a letter or amended complaint alleging a specific value per account under appeal as agreed to at the case management conference in this case on April 23, 2012." (County Mot at 1.) The County states that Plaintiffs failed to submit any documents responsive to the request to specify values for the particular accounts under appeal. (*Id.* at 2.)

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Plaintiffs did not file a written response to the court's Order, or to either the Department Motion or the County Motion. Moreover, as of the date of this Decision of Dismissal, the court has received no further communication from Plaintiffs. Therefore, the court is hereby dismissing Plaintiffs' appeal for lack of prosecution and for failure to comply with the court's July 5, 2012, Order. The trial set for September 17-18, 2012, is canceled. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal is dismissed and trial set in this matter for September 17-18, 2012, is canceled.

Dated this ____ day of August 2012.

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 Decision of Dismissal was signed by Magistrate Dan Robinson on August 2, 2012. The Court filed and entered this Decision of Dismissal on August 2, 2012.