

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

DOROTHY J. HARDIE,)	
)	
Plaintiff,)	No. 000209B
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

This matter is before the court on defendant's Motion to Dismiss, made in its Answer filed on April 6, 2000, requesting that the Complaint be dismissed because an appeal was not first presented to the Multnomah County Board of Property Tax Appeals.

This appeal concerns plaintiff's residence and its real market value for the 1999-00 tax year.

The property is identified in the Multnomah County tax records as account number R106288. No petition was earlier submitted to the county board for 1999-00. The first, and only, Complaint for that year was filed with the Magistrate Division on March 10, 2000.

Plaintiff contends the real market value should be reduced as follows:

<u>Tax Year</u>	<u>Assessment</u>	<u>Plaintiff</u>	<u>Value Difference</u>
1999-00	\$118,800	\$109,000	8.25%

///

///

To appeal assessed values, a taxpayer typically must appeal to her county

board of property tax appeals by December 31 of the current tax year. ORS 309.100.

Here, plaintiff admits she did not timely appeal.

The legislature has provided a limited opportunity to contest certain assessments. In residential cases, the court can grant a taxpayer relief in two circumstances. The first is when a taxpayer establishes good and sufficient cause as to why she did not timely appeal. The second is when the court determines that a gross error exists on the county roll.

Good and Sufficient Cause

The court will consider plaintiff's appeal to see if there is substantive evidence of good and sufficient cause for failing to earlier timely appeal.

ORS 305.288(3) provides:

"The tax court may order a change or correction * * * to the assessment or tax roll for the current tax year and for either of the two tax years immediately preceding the current tax year if, for the year to which the change or correction is applicable the * * * taxpayer has no statutory right of appeal remaining and the tax court determines that **good and sufficient cause exists for the failure by the * * * taxpayer to pursue the statutory right of appeal.**" (emphasis added).

ORS 305.288(5)(b) defines what constitutes good and sufficient cause: "Good and sufficient cause":

"(A) Means an extraordinary circumstance that is beyond the control of the taxpayer, or the taxpayer's agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the statutory right of appeal; and

"(B) Does not include inadvertence, oversight, lack of knowledge, hardship or reliance on misleading information provided by any person except an authorized tax official providing the relevant misleading information." Here, plaintiff

states she did not timely appeal because she did not receive a

copy of the tax statement paid by her escrow company until January of 2000. This is not beyond plaintiff's control; an earlier investigation could have been made. An inquiry could have been made to the assessor's office inquiring about the assessment magnitude and seeking a copy of the tax bill.

Under these particular facts, the court finds that plaintiff does not have good and sufficient cause for failing to timely appeal.

Gross Error

The second circumstance under which the court can hear a taxpayer's case is if it concludes there is a gross error. ORS 305.288(1) sets forth when the court shall order a correction under this approach. The statute states:

"(1) The tax court shall order a change or correction * * * to the assessment and tax roll for the current tax year or for either of the two tax years immediately preceding the current tax year * * * if all of the following conditions exist:

"(a) For the tax year to which the change or correction is applicable, the property was or is used primarily as a dwelling * * * .

"(b) The change or correction requested is a change in value for the property for the tax year and it is asserted in the request and determined by the tax court that **the difference between the real market value of the property for the tax year and the real market value on the assessment and tax roll for the tax year is equal to or greater than 20 percent.**" (emphasis added).

Here, the value range between the parties is less than twenty percent for this tax year. There is no showing of a gross error.

///

///

CONCLUSION

After considering defendant's request, the court concludes that the motion should be granted. Now, therefore,

IT IS THE DECISION OF THE COURT that the appeal is dismissed.

Dated this ____ day of July, 2000.

JEFF MATTSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97310. 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 JEFF MATTSON ON JULY 12, 2000. THE COURT FILED THIS DOCUMENT ON JULY 12, 2000.