

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Small Claims

Property Tax

DELBERT H. AND ELAINE LEWIS, )  
 )  
 Plaintiffs, ) No. 000234B  
 )  
 v. )  
 )  
 LANE COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION AND JUDGMENT**

A case management conference was scheduled on June 6, 2000. Delbert Lewis participated on plaintiffs' behalf. There was no appearance for the defendant.

That proceeding was converted to a trial; sworn testimony was offered and arguments were presented. Plaintiffs were given until July 28, 2000, to provide supporting valuation evidence. Nothing was received.

STATEMENT OF FACTS

This appeal concerns the assessment of certain residential real property for the 1998-99 tax year. Plaintiffs did not timely appeal the 1998-99 tax year to the first level with the Lane County Board of Property Tax Appeals. Mr. Lewis stated he was unaware of the appeal process at that time.

Mr. Lewis stated the land was not improved on the assessment date. He mentioned certain high costs that would likely be incurred to develop the property. He requested a reduction based on the assessment of other adjacent land. No market evidence was produced.

DECISION AND JUDGMENT

## COURT'S ANALYSIS

The legislature has provide a limited opportunity to contest certain earlier year assessments. In residential cases, the court can grant taxpayers relief in two circumstances. The first is when taxpayers establish good and sufficient cause as to why they 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 plaintiffs' appeal for 1998-99 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:

"(b)'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, plaintiffs state they did not timely appeal because they were not aware of the correct appeals process. This is not beyond plaintiffs' control; an earlier investigation could have been made.

Under these particular facts, the court finds that plaintiffs do 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 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, there is no independent market evidence that supports plaintiffs'  
requested relief. There is no showing of a gross error.

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CONCLUSION

IT IS HEREBY ADJUDGED AND DECREED that the appeal is dismissed.

Dated this \_\_\_\_ day of August, 2000.

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JEFF MATTSON  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON AUGUST 24, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 24, 2000.**