

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

BERNADETTE MEGOWAN,)	
)	
Plaintiff,)	No. 000339E
)	
v.)	
)	
CLACKAMAS COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-entitled appeal. The court discussed its motion with the parties during the case management conference held May 24, 2000. Bernadette Megowan appeared on her own behalf. Joe Honl, Appraisal Manager, appeared on behalf of defendant. For ease of reference herein, the parties are referred to as "taxpayer" and "the county."

STATEMENT OF FACTS

Taxpayer purchased the subject property, identified as Account No. 00203498, in January 2000 for \$230,000. For the 1999-2000 tax year, the county assigned the property a real market value of \$273,510 and an assessed value of \$258,300. Because the appeal deadline to the board had passed by the time taxpayer purchased the property, she filed an appeal directly with the court requesting the value for the 1999-2000 tax year be reduced to \$230,000. The county agrees the value should be reduced based on the sale price. The question is whether the court has authority to order the reduction because no appeal was filed with the county board.

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COURT'S ANALYSIS

The Oregon Legislature has developed a system for taxpayers to challenge the assessed and real market values assigned to their properties by county assessors. The first step in the appeals process is to a county board of property tax appeals. Taxpayers are required to file appeals with the appropriate county board by December 31 of the current tax year. ORS 309.100(2).

The legislature recognized that situations may exist which prevent a taxpayer from timely appealing to the county board. As a result, the legislature granted the court authority to hear property tax appeals when a taxpayer has failed to appeal to the county board, but only when one of two circumstances is present. The first is when the taxpayer can establish "good and sufficient cause" for not timely pursuing her appeal with the county board. ORS 305.288(3). The second is when the taxpayer alleges an error of equal to or greater than 20 percent. ORS 305.288(1).

Good and Sufficient Cause

ORS 305.288(3) states:

"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).

The statute defines good and sufficient cause as follows:

"'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.”
ORS 305.288(5)(b) (emphasis added).

Taxpayer did not appeal to the county board because she did not purchase the property until after the appeal deadline had passed. Prior case law, however, has already ruled that taxpayer’s circumstance does not constitute good and sufficient cause. In *Enterprise Rent-A-Car v. Dept. of Rev.*, 12 OTR 259, 260-61 (1992), the Tax Court stated:

“If a subsequent owner does not have an interest in the property until after the period for appeal has expired, the subsequent owner can never show good and sufficient cause for failing to appeal timely.”

As a consequence, the court finds taxpayer does not have good and sufficient cause for failing to timely appeal to the county board.

Gross Error

The legislature has provided the court with authority to consider untimely appeals when the taxpayer alleges an error of equal to or greater than 20 percent. See ORS 305.288(1). To allege an error of at least 20 percent, taxpayer would need to allege a value equal to or less than \$218,808. Taxpayer claims the value should be reduced to the purchase price of \$230,000. As a consequence, the court finds taxpayer has failed to allege or demonstrate an error of 20 percent.

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CONCLUSION

The court concludes it does not have authority to review taxpayer's claim because she does not have good and sufficient cause for failing to timely appeal to the county board and she has not alleged an error of 20 percent.¹ Now, therefore;

IT IS THE DECISION OF THIS COURT that the above-entitled matter be dismissed.

Dated this _____ day of May, 2000.

COYREEN R. WEIDNER
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 COYREEN R. WEIDNER ON MAY 31, 2000. THE COURT FILED THIS DOCUMENT ON JUNE 1, 2000.

¹ At the case management conference, Mr. Honl stated the county was willing to stipulate to a value of \$230,000. However, the court is unable to accept the parties' stipulation unless the requirements of ORS 305.288 are satisfied. See *Seifert v. Dept. of Rev.*, 14 OTR 401 (1998). As discussed, the parties should submit their agreement to the Department of Revenue for its consideration.