

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

ARTHUR F. HAYES, JR. AND)	
TAMMY M. HAYES,)	
)	
Plaintiffs,)	No. 000648B
)	
v.)	
)	
TILLAMOOK COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

A case management conference was held on September 5, 2000. Plaintiffs appeared on their own behalf. Scott MacLean represented the defendant.

This matter is now before the court on defendant's Motion to Dismiss, made in its Answer filed on June 8, 2000, requesting that the Complaint be dismissed because appeals were not first presented at the county level.

This appeal, in part, concerns plaintiffs' residence and its assessed value for two years: 1998-99 and 1999-00.

The property is identified in the Tillamook County tax records as Account Number 332107. No petitions were earlier submitted to the Tillamook County Board of Property Tax Appeals for these years. The first, and only, complaint for these years was filed with the Magistrate Division on April 28, 2000.

Plaintiffs contend the values should be reduced as follows:

<u>Tax Year</u>	<u>Assessment</u>	<u>Plaintiff</u>	<u>Value Difference</u>
1998-99	\$146,323	\$145,000	0.90%
1999-00	\$150,713	\$147,000	2.46%

To appeal assessed values, taxpayers typically must appeal to their county board of property tax appeals by December 31 of the current tax year. ORS 309.100. Here, plaintiffs admit they did not timely appeal in these earlier years.

The legislature has provided 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 and 1999-00 if there is substantive evidence of good and sufficient cause for failing to earlier timely appeal. ORS 305.288(2)¹ 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(4)(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

¹Any reference to the Oregon Revised Statutes is to the 1997 revision.
DECISION

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 assessment magnitude and comparative market sales information until a later date. They were also meeting competing demands on their limited time by a business they operate. 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 assessed value of the property for the tax
year and the 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 much less than twenty percent for each year. There is no showing of a gross error.

CONCLUSION

After considering defendant's request, the court concludes that the motion should be granted for 1998-99 and 1999-00. Now, therefore,

IT IS THE DECISION OF THE COURT that defendant's Motion to Dismiss is granted. The appeal is dismissed.

Dated this ____ day of September, 2000.

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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 SEPTEMBER 20, 2000. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 20, 2000.