

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Property Tax

LAURENCE A. MACLAREN AND DAWN D. )  
RICHEY, )  
 ) No. 000694F  
Plaintiffs, )  
 )  
v. )  
 )  
MULTNOMAH COUNTY ASSESSOR, )  
 ) **DECISION**  
Defendant. )

This matter is before the court on defendant's Motion to Dismiss, made in its Answer filed May 17, 2000, requesting the Complaint be dismissed because the appeal was not timely filed. The court held a case management conference on July 11, 2000. The court also allowed plaintiffs additional time to submit materials relating to the value of the property as of the assessment date. Laurence MacLaren appeared for plaintiffs. Dave Babcock appeared for defendant. This appeal concerns plaintiffs' residence and its assessed value for the 1999-00 tax year.

The property is identified in the Multnomah County tax records as account number R219120. No petition was earlier submitted to the County Board of Property Tax Appeals. The first, and only, complaint was filed with the Magistrate Division on April 26, 2000.

**COURT'S ANALYSIS**

To contest assessed values, taxpayers typically must appeal to their County Board of Property Tax Appeals by December 31 of each tax year. ORS 309.100. Plaintiffs admit they did not timely appeal in the year at issue.

The legislature has given the court limited authority to consider appeals when the party did not first appeal to the board of property tax appeals. ORS 305.288(1) states:

“The tax court shall order a change or correction \* \* \* to the assessment and tax roll **for 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.)

Plaintiffs contend the value should be reduced from its \$186,500 current real market value to \$169,900. Plaintiffs purchased the property in April 2000 for \$169,900.<sup>1</sup> This would be a reduction of only 8.9%. Plaintiffs do not meet the gross error standard.

Plaintiffs have a second opportunity for the court to be able to hear their appeal. 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 \* \* \* if, \* \* \* the assessor or taxpayer has no statutory right of appeal remaining and the tax court determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal.”

Good and sufficient cause is “an extraordinary circumstance that is beyond

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<sup>1</sup> The comparable sales plaintiffs submitted ranged in price from \$169,900 to \$181,900.

the control of the taxpayer[.]” ORS 305.288(5)(b)(A). Further, good and sufficient cause “[d]oes 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)(B).

Plaintiffs did not timely appeal the 1999-00 assessed value because they did not purchase the property until April 2000, after the appeal period had expired. The Regular Division of the Tax Court has previously held that “[i]f 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.” *Enterprise Rent-A-Car Co. v. Dept. of Rev.*, 12 OTR 259, 260-261 (1992) (emphasis added). Consequently, the court cannot reach the 1999-00 tax year under the good and sufficient cause provision.

### CONCLUSION

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

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

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SALLY L. KIMSEY  
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 SALLY L. KIMSEY ON AUGUST 9, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 9, 2000.**