



value by petitioning the local board and then appealing that decision, if unfavorable, to the Tax Court. ORS 309.026, 309.100, 305.280.<sup>1</sup> Petitions to the board must be filed each year by December 31. ORS 309.100(2).<sup>2</sup> Plaintiffs did not own the property until after the board appeal filing deadline. In these circumstances, where relevant, the court looks to the actions or inactions of the owners at the time the petition could have been filed (i.e., the sellers).

The court is limited when considering appeals filed outside the anticipated statutory process. Plaintiffs in this case filed their appeal directly with this court. The applicable statutory provision is ORS 305.288.

Since the appeal involves undeveloped land, only subsection (3) of the statute applies.<sup>3</sup> It provides:

“(3) The tax court may order a change or correction applicable to a separate assessment of property 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 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.” ORS 305.288(3) (emphasis added).

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<sup>1</sup> Reference to the Oregon Revised Statutes (ORS) is to the 1999 Edition.

<sup>2</sup> The statute reads:

“Petitions filed under this section shall be filed with the clerk of the board during the period following the date the tax statements are mailed for the current tax year and ending December 31.” ORS 309.100(2).

<sup>3</sup> Subsection (1) allows the court to order a reduction in value if an error in value of 20 percent or more exists. However, that provision applies only to “property [that] was or is used primarily as a dwelling (or is vacant) and was and is a single-family dwelling, a multifamily dwelling of not more than four units, a condominium unit, a manufactured structure or a floating home.” ORS 305.288(1)(a).

The term “good and sufficient cause” is defined in the statute as “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.” ORS 305.288(5)(b)(A).

Mr. Georges had no direct information as to why the previous owner (the developer) failed to pursue an appeal with the board. A likely reason is that a successful appeal would reduce the roll value and might negatively impact the sale price. In any event, there is no indication that extraordinary circumstances prevented the filing of a petition with the board and a timely appeal therefrom.

### **CONCLUSION**

A review of plaintiffs’ value appeal for the 1999-00 tax year brings the court to the conclusion that the case cannot proceed to the merits because the provisions of ORS 305.288 governing the filing and review of appeals filed outside the ordinary process (beginning with a petition to the local board) are not satisfied. See ORS 305.288. Specifically, plaintiffs have not shown that good and sufficient cause exists to excuse the failure to pursue the statutory right of appeal as outlined above. ORS 305.288(3).

IT IS HEREBY ADJUDGED AND DECREED that plaintiffs’ Complaint is dismissed.

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

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DAN ROBINSON  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON JULY 24, 2000. THE COURT FILED THIS DOCUMENT ON JULY 24, 2000.**