

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Property Tax

JOHN DAY OIL, INC., ERNEST WILSON,)	
NICOLAS WILSON and VIRGINIA WILSON,)	
)	No. 000797F
Plaintiffs,)	
)	
v.)	
)	
GRANT COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on defendant's Motion to Dismiss, filed June 12, 2000, in its Answer, requesting that the Complaint be dismissed. The court heard the parties' arguments on the motion during the case management conference held August 14, 2000. Carl Wilson, Authorized Representative, appeared on behalf of plaintiffs. Mike Kilpatrick, Attorney, represented defendant. This appeal concerns plaintiffs' gas station and its real market value for the 1999-00 tax year.

The property is identified in Grant County tax records as Account Number 1142. Plaintiffs filed an appeal to the Board of Property Tax Appeals (BOPTA). The BOPTA order was mailed on April 3, 2000. Plaintiffs filed their Complaint with the Magistrate Division on May 26, 2000.

COURT'S ANALYSIS

Plaintiffs filed their appeal with this court more than 30 days after BOPTA mailed its order. ORS 305.280(4) requires that "an appeal * * * from an order of a

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county board of property tax appeals shall be filed within 30 days after the * * * date of mailing of the order[.]”

The legislature has given the court limited authority to consider appeals if the taxpayer did not first appeal to the County Board of Property Tax Appeals. 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 the control of the taxpayer.” ORS 308.288(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 308.288(5)(b)(B).

Consistent with plaintiffs' petition to BOPTA, defendant mailed the BOPTA order to Virginia Wilson in St. Charles, Missouri. Ms. Wilson misplaced the order. On May 3, 2000, Carl Wilson called plaintiffs' realtor and obtained a copy of the order. This appeal was filed shortly thereafter.

Carl Wilson offered no real reason for plaintiffs failure to timely appeal the 1999-00 real market value. Consequently, the court cannot review the 1999-00 tax year under the good and sufficient cause provision. Defendant's motion is granted.

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Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that this matter be dismissed.

Dated this ____ day of August, 2000.

SALLY L. KIMSEY
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON AUGUST 29, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 29, 2000.