

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

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|-----------------------|---|-----------------|
| BENJAMIN L. JACKSON, |) | |
| |) | |
| Plaintiff, |) | No. 000799E |
| |) | |
| v. |) | |
| |) | |
| LANE COUNTY ASSESSOR, |) | |
| |) | |
| Defendant. |) | DECISION |

Plaintiff appeals the county's Notice Of Intention To Add Value Due To A Clerical Error for tax years 1995-96 through 1999-2000. The property is identified as Account No. 1500717. Trial in the matter was held September 13, 2000. Benjamin L. Jackson appeared on his own behalf. Steve Nasset, Appraiser, appeared on behalf of defendant.¹ For ease of reference herein, the parties are referred to as "taxpayer" and "the county."

STATEMENT OF FACTS

In 1994, taxpayer owned property that was described as Tax Lot 4500. Taxpayer asked the county to divide the property into two tax lots, creating Tax Lots 4500 and 4502. The subject property became Tax Lot 4502. Taxpayer purchased two identical manufactured homes in 1994 and placed one home on each lot. After dividing the property into two lots, the county added a manufactured home to each account.²

¹ The proceeding began as a case management conference but was converted to a trial at the request of the parties.

² The subject account is also improved with a garage. It was not clarified at trial whether Tax Lot 4500 also has a garage.

Subsequently, a county employee, seeing what appeared to be an improvement value in duplicate, removed the manufactured home from the account at issue. As a result, the tax roll beginning with the 1995-96 tax year for the subject account included an improvement value for the garage only. The 1995-96 tax statement was the first received by taxpayer reflecting the divided lots. It was not until 1999 that the county became aware of its mistake. The county then sent taxpayer notice that it intended to add the value of the manufactured home to the roll for the 1995-96 through 1999-2000 tax years. Taxpayer appeals claiming the county cannot add the value because it is an impermissible change in valuation judgment by the county.

COURT'S ANALYSIS

ORS 311.205³ allows the county to change the tax roll to correct a clerical error.⁴ The statute provides, in pertinent part:

"(1) After the assessor certifies the assessment and tax roll to the tax collector, **the officer in charge of the roll may correct errors or omissions in the roll to conform to the facts, as follows:**

"(a) **The officer may correct a clerical error. A clerical error is an error on the roll which either arises from an error in the ad valorem tax records of the assessor, * * * or which is a failure to correctly reflect the ad valorem tax records of the assessor, * * * and which, had it been discovered by the assessor or the department prior to the certification of the assessment and tax roll of the year of assessment would have been corrected as a matter of course, and the information necessary to make the correction is contained in such records. Such errors include**, but are not limited to, arithmetic and copying errors,

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³ All references to the Oregon Revised Statutes are to the 1999 provisions.

⁴ ORS 311.205(2)(a) allows corrections to be made "to the roll for any year or years not exceeding five years prior to the last roll so certified."

and the omission or misstatement of a land, improvement or other property value on the roll.”

ORS 311.205 (emphasis added.)

Taxpayer argues that to modify the roll as the county has done in this case is a change in valuation judgment which is prohibited under ORS 311.205(1)(b).⁵ However, taxpayer misconstrues this limitation on the county’s ability to correct the roll. A valuation judgment “requires that the officer exercise judgment to determine the value, formulate an opinion as to value, or inquire into the state of mind of the appraiser.” OAR 150-311.205(1)(b) (giving examples such as making mathematical errors in computation of square footage, etc., and errors made in calculating a real market value). Here, the county exercised no valuation judgment with respect to the manufactured home; it was simply omitted from the tax roll. Whether the county recognized its error in 1995 or 1999 does not change the value ultimately placed on the roll for the manufactured home or the calculation of taxes for the years at issue. Taxpayer is not being required to pay any more taxes than he would otherwise have paid had the clerical error not occurred.

Taxpayer testified that, when he received the tax statement reflecting an improvement value of only \$15,840 for tax year 1995-96, he believed the value was low, especially because he had just purchased the manufactured home for approximately \$32,000. He further admits that the tax statement for the other lot, which correctly included a value for the second manufactured home, contained an improvement value that was noticeably higher than the subject account. Taxpayer testified he simply assumed the county's valuation for the subject account was behind the market and felt no responsibility

⁵ ORS 311.205(1)(b) provides that “[t]he officer may not correct an error in valuation judgment * * *. Such errors are those where the assessor would arrive at a different opinion of value.”

to bring the low value to the attention of the assessor. Although it is perhaps understandable why taxpayer would not bring a low value to the attention of the assessor, he is in no position to complain once the assessor discovers its mistake.

CONCLUSION

The court concludes that the county's correction of the tax roll was proper in accordance with statutory allowances. Now, therefore;

IT IS THE DECISION OF THIS COURT that the county's Notice Of Intention To Add Value Due To A Clerical Error for tax years 1995-96 through 1999-2000 is affirmed.

Dated this _____ day of October, 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 OCTOBER 19, 2000. THE COURT FILED THIS DOCUMENT ON OCTOBER 19, 2000.