

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Property Tax

JAMES P. AND ANDREA L. EVANS,)	
)	
Plaintiffs,)	No. 000962F
)	
v.)	
)	
LANE COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss, discussed at the case management conference held September 29, 2000. Andrea Evans appeared for plaintiffs. Steve Nasset appeared for the defendant. This appeal concerns plaintiffs' land and its assessed value for tax year 1999-00.

The property is identified in the Lane County tax records as Account Number 1548286. 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 August 2, 2000.

Plaintiffs purchased a residential lot in September 1999 for \$38,150. They did not receive a tax statement in November 1999. In June 2000 they received a bill and paid the outstanding taxes. They also requested information regarding their assessment. Upon learning that the real market value assigned by defendant for tax year 1999-00 was \$50,490,¹ they filed their appeal with the Magistrate Division. Defendant, in its Answer, agreed that the property's real market value should be reduced to \$38,150.

¹ Defendant placed a maximum assessed value of \$43,298 for tax year 1999-00.

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 did not timely appeal the year at issue because they did not receive the property tax statement and learn the assigned real market value of their property until after the appeal period expired.

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(3) states:

“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, * * * 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 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 308.288(5)(b)(B).

Plaintiffs' reason for their failure to timely appeal the 1999-00 assessed value was their lack of knowledge as to the assigned real market value of the property. Lack of knowledge is specifically excluded as good and sufficient cause. Consequently, the court cannot reach tax year 1999-00 under the good and sufficient cause provision.

At the case management conference the court discussed with the parties a

supervisory appeal to the Department of Revenue. See ORS 306.115(3). Plaintiff may be able to obtain relief through a supervisory appeal to the Department, particularly since the parties agree to the value of the property. See OAR 150-306.115(3)(b)(A) & (ii)² (“[t]he substantive issue in a petition will be considered under ORS 306.115(3) when: * * * [t]he parties to the petition agree to facts which indicate it is likely that an error exists on the roll”). Mr. Nasset agreed to contact the Department of Revenue to determine the best way for the plaintiffs to proceed with a supervisory appeal since the parties “agree to facts which indicate it is likely that an error exists on the roll.”

For the reasons discussed above, the court finds that plaintiffs’ Complaint must be dismissed. Now, therefore;

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

Dated this ____ day of October, 2000.

SALLY L. KIMSEY
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON
OCTOBER 5, 2000. THE COURT FILED THIS DOCUMENT ON OCTOBER 5, 2000.**

² This version of OAR 150-306.115 was certified effective December 31, 1999.