

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Property Tax

RUSSELL D. SMITH (Deceased) dba )  
Pendleton TV and Electronics, )  
 )  
Plaintiff, ) No. 000972F  
 )  
v. )  
 )  
UMATILLA COUNTY ASSESSOR, )  
 )  
Defendant. ) **DECISION OF STIPULATION**

This matter is before the court upon the oral stipulation of the parties made at trial<sup>1</sup> on October 3, 2000. Carol Smith, widow of the late Mr. Smith, appeared for plaintiff. Paul Chalmers and Sandra Pupo appeared for defendant.

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. Plaintiff did not timely appeal the year at issue. Since the year was not timely appealed, the court's authority to grant relief, if any, lies in ORS 305.288. 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.

Under ORS 305.288(3), the court may grant relief for the current tax year and the two years prior to the current tax year when the court determines good and sufficient cause exists for the failure of the taxpayer to timely pursue a right of appeal. Good and sufficient cause is "an extraordinary circumstance that is beyond the control of the

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<sup>1</sup> This proceeding was originally convened as a case management conference. It was converted to a trial with the agreement of the parties.

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).

Mr. Smith operated a small video rental store and electronic game room in Pendleton. According to Mrs. Smith, a heart specialist told her husband that “two main arteries were completely plugged up” and his “heart was so enlarged that it was a miracle that he was still on his feet.” Over a six month period he closed the store and sold the associated personal property. He was too ill to work after the store closed in June 1999. Mr. Smith died on November 29, 1999. The court finds that this is a sufficient demonstration of good and sufficient cause.

IT IS THE DECISION OF THE COURT that the real market value of property described as Account No. 128445 was, as stipulated for the 1999-00 tax year \$30,735.

IT IS FURTHER DECIDED that the county shall correct the assessment and tax rolls to reflect the above values. Any refund due following this correction is to be promptly paid with statutory interest pursuant to ORS 311.806 and 311.812.

Dated this \_\_\_\_ day of October, 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**

OCTOBER 4, 2000. THE COURT FILED THIS DOCUMENT ON OCTOBER 4, 2000.