

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

SO PAW, INC.,)
)
 Plaintiff,) No. 001048E
)
 v.)
)
 CLATSOP COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff appeals defendant's foreclosure notice for the property identified as Account No. 6357. Plaintiff asks the court to cancel the interest charged for tax years 1997-98, 1998-99, and 1999-2000. Trial in the matter was held October 24, 2000. Steve Stockstill appeared on behalf of plaintiff. Suzanne M. Johnson, Co-Interim Director A&T, appeared on behalf of defendant (the county).

STATEMENT OF FACTS

During the last several years, plaintiff has experienced serious financial problems. As a consequence of these financial problems, the taxes on the subject property were not paid and became delinquent. Because the 1996-97 tax year had been delinquent for three years, the county began foreclosure proceedings for that year. See ORS 312.010.¹ It sent plaintiff notice of the foreclosure process and of the delinquent taxes and interest due for tax years 1996-97 through 1999-2000. Financially, things are turning around for plaintiff and it was able to pay the 1996-97 liability to keep the property from being foreclosed.

¹ ORS 312.010(1) states:

“Except as otherwise provided by law, real property within this state is subject to foreclosure for delinquent taxes whenever three years have elapsed from the earliest date of delinquency of taxes levied and charged thereon.”

However, plaintiff is asking the court to waive the interest charges for the remaining years so that it can be in a better position of paying the remaining liability.

COURT'S ANALYSIS

ORS 311.505 requires the county to impose interest on taxes that are delinquent. It states:

“(2) Interest shall be charged and collected on any taxes on property * * * or installment thereof not paid when due, at the rate of one and one-third percent per month, or fraction of a month until paid.” ORS 311.505(2).

After reviewing the applicable law, the court finds that it has no authority to waive the interest charged. The court understands plaintiff is trying to get back on its feet and pay off the outstanding liability. The court further understands that canceling the interest charge would assist plaintiff in this endeavor. However, the interest charge is mandatory by statute and there is no provision for waiver of that interest based on a taxpayer’s particular circumstances. As noted in *Alexander v. Marion County Assessor*, OTC-MD No. 991113C (November 10, 1999):

“There is simply no law in this state that allows the court to consider the circumstances involved and determine whether the amount assessed should be lowered. In fact, there is no government body with authority to abate interest assessed against unpaid property taxes under the facts of this case. The interest in this case was assessed pursuant to ORS 311.505(2), which provides for a mandatory charge.” (Footnote omitted.)

CONCLUSION

The court finds that it lacks authority to cancel the interest charged under the facts of this case. Now, therefore;

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IT IS THE DECISION OF THIS COURT that plaintiff’s appeal is denied.

Dated this _____ day of November, 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 NOVEMBER 8, 2000. THE COURT FILED THIS DOCUMENT ON NOVEMBER 8, 2000.