

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Small Claims
Property Tax

HENRY L. POWERS,)
)
 Plaintiff,) No. 001141C
)
 v.)
)
 DESCHUTES COUNTY ASSESSOR,)
)
 Defendant.) **DECISION AND JUDGMENT**

Plaintiff has requested a reduction in the real market and assessed value of his home in Redmond, Oregon, for the 1999-00 tax year. The appeal was filed directly with the court without a prior petition to the Deschutes County Board of Property Tax Appeals (board). A hearing was held by telephone on January 9, 2001, to determine whether the provisions of ORS 305.288 were satisfied. Plaintiff appeared on his own behalf. Defendant (the county) appeared through Ms. Theresa Maul, an appraiser with the county assessor's office.

STATEMENT OF FACTS

The subject property is a newly constructed home purchased by plaintiff in May of 1999 for \$167,500. It is identified in the assessor's records as Account Number 151329AC03539. The real market value (RMV) for tax year 1999-00 is \$181,880 and the assessed value (AV) is \$145,860. Plaintiff asks the court to reduce the RMV to the purchase price and to adjust the AV proportionately.

In explaining the reason for the lack of a board petition in 1999, plaintiff testified that roughly two weeks after receiving the tax statement in mid-October 1999 he and his wife traveled south to Arizona for the winter, apparently due to his wife's health. Plaintiff further

testified that although he questioned the values appearing on the tax statement he simply paid the tax without objection before leaving town to avoid the necessity of dealing with the situation after arriving in Arizona. Plaintiff acknowledged that he was “lax” in this regard and probably should have taken the time to go down to the county offices and file an appeal.

COURT'S ANALYSIS

The court explained at the hearing that its authority to consider appeals requesting value reductions for prior tax years is found in ORS 305.288.¹ The court’s authority under ORS 305.288 is not unconditional and without this provision the court would have no authority to consider this case. This is because the procedure contemplated by the statutes for challenging the value appearing on the tax statement each year is to petition the county board before December 31 and then, if unhappy with the outcome, to timely appeal the board’s order to this court. See ORS 309.026, 309.100, 305.275 and 305.280.

In the absence of a timely and proper appeal, the court is nonetheless authorized under ORS 305.288 to reduce the valuation of a separate assessment of “residential” property if the property owner demonstrates either: 1) an error in value of at least 20 percent (ORS 305.288(1)); or, 2) establishes good and sufficient cause for not petitioning the county board (ORS 305.288(3)). The term "good and sufficient cause" is defined by statute as " * * * an extraordinary circumstance that is beyond the control of the taxpayer * * * and that causes the taxpayer * * * to fail to pursue the statutory right of appeal[.]" ORS 305.288(5)(b)(A). The statutory right of appeal referenced in

¹Reference to the Oregon Revised Statutes (ORS) is to 1999.

ORS 305.288(5)(b)(A) is the process set forth above, which begins with a local appeal to the board before December 31. Inadvertence, oversight, and lack of knowledge are specifically excluded from the definition of "good and sufficient cause".

ORS 305.288(5)(b)(B).

Plaintiff here asks for a reduction in RMV from \$181,880 to \$167,500, which is a reduction of roughly eight percent. This is obviously well below the 20 percent required. As for good and sufficient cause, plaintiff admits he was lax in not timely pursuing the matter with the county. Laxness is not an extraordinary circumstance and it is certainly not beyond a person's own control. The court appreciates Mr. Power's candor but the facts tie the court's hands.

CONCLUSION

Plaintiff's request for reductions in RMV and AV cannot be granted by the court because the appeal involves a prior tax year (1999-00) and the provisions of ORS 305.288 are not satisfied. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that the relief requested by plaintiff in his Complaint is denied for failure to allege an error in value of 20 percent or establish good and sufficient cause for not following the statutory appeal rights by first petitioning the county board in 1999.

Dated this _____ day of January, 2001.

DAN ROBINSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON JANUARY 22, 2001. THE COURT FILED THIS DOCUMENT ON JANUARY 22, 2001.