

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

DAVID AINGE AND STACY L. AINGE,	)	
	)	
Plaintiffs,	)	No. 001163F
	)	
v.	)	
	)	
CLACKAMAS COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs appeal the real market value of their property for the 2000-01 tax year. The property is listed as Clackamas County Assessor's Account No. 00394273. A case management conference was convened on January 8, 2001. With the agreement of the parties, it was converted to a trial. Stacy Ainge appeared for plaintiffs. Joe Honl, Appraisal Manager, appeared for defendant.

**STATEMENT OF FACTS**

As part of a training exercise conducted by the Tualatin Valley Fire and Rescue, plaintiffs' property suffered two fires. The first fire occurred on February 25, 2000; the second fire occurred on April 22, 2000. The second fire completed what the first fire started, i.e., the complete destruction of the house, guest house and detached garage on the property. Plaintiffs filed an Application for Proration of Property Taxes on November 9, 2000. Defendant denied the application, as being untimely, on November 15, 2000. Plaintiffs filed their appeal with the court shortly thereafter. Plaintiffs ask that the real market value of their property be reduced for tax year 2000-01 to reflect the destruction of the improvements.

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## COURT'S ANALYSIS

When property is destroyed or damaged between January 1 and July 1, a property owner “may apply to the county assessor to have the real market and assessed value of the property determined as of July 1 of the current assessment year.” ORS 308.428(1). In order to receive the benefit of the statute, the property owner “**shall file an application** for assessment under this section with the county assessor **on or before August 1** of the current year.” ORS 308.428(2) (emphasis added).

It is undisputed that, had plaintiffs timely filed the application to have the real market value redetermined for 2000-01, the assessment for the tax year 2000-01 would have excluded the value of the improvements. This would have resulted in a significantly smaller tax bill. Unfortunately, since plaintiffs missed the deadline the court is powerless to give plaintiffs their requested relief. The application, filed in November 2000, was too late to qualify for relief under ORS 308.428.

## CONCLUSION

The property suffered a very real loss. A statute exists to provide some relief from the taxation of property damaged or destroyed by fire. Unfortunately, no application was filed within the time set out in the statute. The statutory period must stand.

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IT IS THE DECISION OF THE COURT that plaintiffs' appeal is denied.

Dated this \_\_\_\_\_ day of January, 2001.

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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 JANUARY 17, 2001. THE COURT FILED THIS DOCUMENT ON JANUARY 17, 2001.**