

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

HAROLD B. WASHINGTON,)
)
 Plaintiff,) No. 001166F
)
 v.)
)
 YAMHILL COUNTY ASSESSOR,)
)
 Defendant.) **AMENDED DECISION**

Plaintiff appeals defendant's refusal to change the assessment date for his property from January 1 to July 1 for the 2000-01 tax year. The property is listed as Yamhill County Assessor's Account No. 138363. A case management conference was convened on January 16, 2001. Harold Washington appeared for plaintiff. Roy Reel appeared for defendant.

STATEMENT OF FACTS

As part of a "learn to burn" exercise conducted by the McMinnville Fire Department, plaintiff's property suffered a fire on May 7, 2000. The fire resulted in the complete destruction of the improvements on the property. Prior to the fire, plaintiff had received a permit to demolish his property. Defendant received a copy of that permit. When plaintiff received the tax statement for the 2000-01 tax year, it included a value for the improvements. Plaintiff filed an appeal with the county Board of Property Tax Appeals (BOPTA). BOPTA does not have authority to change the assessment date. The BOPTA appeal was when defendant first became aware that the fire had actually occurred. Plaintiff filed his appeal with the court shortly thereafter. Plaintiff asks that the real market

value of his property be reduced for tax year 2000-01 to reflect the destruction of the improvements.

COURT'S ANALYSIS

The assessment date is January 1 for the tax year beginning on the following July 1. ORS 308.007(1)(a) and 308.210(1). However, 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 plaintiff 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 plaintiff missed the deadline the court is powerless to give plaintiff the requested relief. An application, must be filed “on or before August 1 of the current year” in order 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. Without a timely application, the assessment date remains at January 1, 2000, for tax year 2000-01.

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

Dated this _____ day of February, 2001.

SALLY L. KIMSEY
MAGISTRATE

THE APPEAL PERIOD, AS SET FORTH IN THE ORIGINAL DECISION FILED ON JANUARY 22, 2001, CONTINUES FROM THE DATE OF THE ORIGINAL DECISION.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON FEBRUARY 27, 2001. THE COURT FILED THIS DOCUMENT ON FEBRUARY 27, 2001.