

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

LELA G. STEFFEY, )  
 )  
 Plaintiff, ) No. 010003E  
 )  
 v. )  
 )  
 BENTON COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION AND JUDGMENT**

Plaintiff appeals the 1999-2000 real market value of the home identified in the Benton County Assessor's records as Account No. 181101. Trial in the matter was held February 6, 2001.<sup>1</sup> Lela G. Steffey appeared on her own behalf. Douglas Hillpot appeared on behalf of defendant. For ease of reference herein, the parties are referred to as "taxpayer" and "the county."

**STATEMENT OF FACTS**

The subject property is a home taxpayer owned in Benton County in which her son lived. Because the home was in such poor condition, taxpayer decided to donate the property to the Philomath Fire Department for live-fire training. The Philomath Fire Department destroyed the home on May 1, 1999. Sometime before this date, taxpayer placed a mobile home unit on the property.

In the fall of 1999, taxpayer received a 1999-2000 property tax statement for the subject account. It showed a real market value for the "structures" of \$16,638. Taxpayer assumed this value represented the value of the mobile home so she did not contest it. In

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<sup>1</sup> The court converted the proceeding from a case management conference into a trial based on the representation of the parties that they were prepared to fully present their case at that time.

the fall of 2000, taxpayer received a 2000-01 tax statement for the subject account showing a minor value for structures, which represented the value of a double car garage that had been erected on the property. The county removed the value of the destroyed home for the 2000-01 tax year. Taxpayer also received a separate tax statement for the mobile home unit. Confused as to why she was receiving two statements, taxpayer contacted the county's offices. It was at this point she realized the structure's value on the prior year's statement (1999-2000) only represented the value of the home that was destroyed in May 1999.<sup>2</sup>

Taxpayer appeals to this court asking that the taxes for tax year 1999-2000 be "prorated from the time the house was burned down." (Ptf's Complaint at 1.) The county claims relief is not appropriate because taxpayer failed to timely file applications for relief.

### **COURT'S ANALYSIS**

The Oregon Legislature has provided a couple forms of statutory relief to taxpayers whose homes are destroyed by fire (or act of God) during a tax year. The particular form of relief available depends on the date of the fire.

#### Proration of Taxes

ORS 308.425 provides for a proration of property taxes when property is damaged or destroyed by fire. The statute provides:

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"(1) If, during any tax year, any real or personal property is destroyed or damaged by fire or act of God, the owner \* \* \* may apply to the tax collector for

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<sup>2</sup> Taxpayer apparently did not receive a 1999-2000 tax statement for the mobile home because it was placed on the property after the January 1, 1999, assessment date.

proration of the taxes imposed on the property for the tax year.” ORS 308.425.<sup>3</sup>

As can be seen from the quoted language above, a taxpayer may have his taxes prorated for an event (fire or act of God) that occurs at any time during the *tax year*.<sup>4</sup> The “tax year” is a 12-month period beginning July 1 and ending June 30. ORS 308.007(1)(c). Because the fire in this case took place on May 1, 1999, it occurred during the 1998-99 tax year (which ran from July 1, 1998, to June 30, 1999.) A proration of taxes would have covered the 1998-99 tax year and provided for two months of tax relief (May and June 1999).

The statute providing for the proration of taxes, however, requires a taxpayer to file an application for relief. It provides that the application “**shall** be made not later than the end of the tax year or 30 days after the date the property was destroyed or damaged, whichever is later.” ORS 308.425(2) (emphasis added.) An application is necessary as evidenced by the legislature’s use of the word “shall.” Taxpayer had until June 30, 1999, to file the application for proration of taxes for the 1998-99 tax year with the county. Taxpayer did not submit an application for proration of taxes as required. As a result, the court finds taxpayer is not entitled to a proration of taxes for the 1998-99 tax year.<sup>5</sup>

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#### Value Redetermination

The Oregon Legislature has provided another form of relief to a taxpayer whose

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<sup>3</sup> All references to the Oregon Revised Statutes are to 1999.

<sup>4</sup> The statute begins: “If, during any tax year \* \* \*.”

<sup>5</sup> A proration of taxes was not available for the 1999-2000 tax year because the fire did not take place during that tax year.

property is destroyed by fire if, as in this case, the property is destroyed during the first six months of the *assessment year* (but prior to the beginning of the tax year). Under ORS 308.007(1)(b), the term assessment year “means calendar year.”

Generally, the date of assessment of property is the January 1 preceding the tax year. For example, the date of assessment for the 1999-2000 tax year was January 1, 1999. The county values a property as it exists on the January 1 date. However, if a property is destroyed at any time during the six months from January 1 to July 1, the statute allows a taxpayer to request that the property be revalued as of the July 1 date (and, therefore, reflect the loss in value as a result of the fire.) The relevant statute states:

“(1) If, during the period beginning on January 1 and ending on July 1 of an assessment year, any real or personal property is destroyed or damaged by fire or act of God, the 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.

If an application is made, the county will value the property as of July 1 and the reduced value will be reflected in the tax statement received the following fall. In this case, the fire occurred between January 1 and July 1, 1999; therefore, plaintiff was entitled to seek a redetermination of real market and assessed value for the 1999-2000 tax year. However, as with tax proration, an application is required in order to have the value determined as of July 1. The statute provides:

“(2) The person described in subsection (1) of this section **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 (emphasis added.)

Under the statute, taxpayer had until August 1, 1999, to file an application with the assessor requesting that the property be valued as of July 1, 1999. Taxpayer filed no such application. As with the tax proration provision, the filing of an application here is

necessary.

The court understands that taxpayer was unaware she needed to file an application for relief. The court further recognizes that, had taxpayer timely filed an application to have the taxes prorated for 1998-99, and the value redetermined for 1999-2000, she would have received some tax relief. Unfortunately, because taxpayer missed the deadlines for both forms of relief, the court is powerless to award taxpayer relief. The legislature has long been aware of the application deadlines applicable in this area and has elected to keep those deadlines in place.

### **CONCLUSION**

Because taxpayer missed the filing deadlines applicable to both the proration of taxes available under ORS 308.425 (for the 1998-99 tax year) and the redetermination of value as of July 1 available under ORS 308.428 (for the 1999-2000 tax year), the court cannot grant either form of relief. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that taxpayer's appeal is denied.

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

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COYREEN R. WEIDNER  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON FEBRUARY 26, 2001. THE COURT FILED THIS DOCUMENT ON FEBRUARY 26, 2001.**