

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

PEGGY A. LEWIS,)	
)	
Plaintiff,)	No. 010008E
)	
v.)	
)	
MARION COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-entitled appeal finding it lacks authority to review the case under ORS 305.288. The court discussed its motion with Ms. Lewis during the case management conference on March 7, 2001. Jeff Procter, defendant's representative, failed to appear for the proceeding.

STATEMENT OF FACTS

Ms. Lewis appeals the 1999-2000 real market value of the property identified as Account No. R51005. The real market value on the 1999-2000 tax roll was \$171, 900. Ms. Lewis claims the value should be no more than \$141,000 because that is the price she paid for the home in the spring of 1998. When asked by the court why she did not appeal the 1999-2000 tax year to the county board in a timely manner, Ms. Lewis indicated she was in the middle of a divorce, working overtime, and trying to raise her child. The circumstances were so overwhelming she considered it easier at that point to simply pay the tax.

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As explained at the conference, because Ms. Lewis has presented the court with an

untimely appeal, the court must first evaluate whether it has authority to review the merits of the case. See *Seifert v. Dept. of Rev.*, 14 OTR 401 (1998).

COURT'S ANALYSIS

The Oregon Legislature has developed a system for taxpayers to challenge the assessed and real market values assigned to their properties. The first step in the appeal process is to a county board of property tax appeals. Taxpayers are required to file appeals with the appropriate county board by December 31 of the current tax year. ORS 309.100(2).¹

The legislature recognized situations may exist that prevent a taxpayer from timely appealing to the county board. As a result, the legislature granted the court authority to hear untimely property tax appeals when one of two circumstances is present. The first is when the taxpayer establishes "good and sufficient cause" for not timely pursuing her appeal with the county board. ORS 305.288(3). The second is when the taxpayer alleges an error of equal to or greater than 20 percent. ORS 305.288(1).

Good and Sufficient Cause

ORS 305.288(3) states:

"The tax court may order a change or correction * * * to the assessment or tax roll for the current tax year and for either of the two tax years immediately preceding the current tax year if, for the year to which the change or correction is applicable the * * * taxpayer has no statutory right of appeal remaining and the tax court determines that **good and sufficient cause exists for the failure by the * * * taxpayer to pursue the statutory right of appeal.**" (Emphasis added).

The statute defines good and sufficient cause as follows:

"Good and sufficient cause':

¹ All references to the Oregon Revised Statutes are to 1999.

“(A) Means an **extraordinary circumstance that is beyond the control of the taxpayer**, or the taxpayer’s agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the statutory right of appeal; and

“(B) **Does not include** inadvertence, oversight, lack of knowledge, **hardship** or reliance on misleading information provided by any person except an authorized tax official providing the relevant misleading information.” ORS 305.288(5)(b) (emphasis added).

Although the court understands the circumstances faced by Ms. Lewis during the appeal period were difficult, they were not so extraordinary or beyond her control to prevent her from pursuing her statutory right of appeal. The court concludes, therefore, that good and sufficient cause is lacking in this appeal.

Gross Error

The legislature has provided the court with authority to consider untimely appeals when the taxpayer alleges an error equal to or greater than 20 percent. See ORS 305.288(1). To allege an error of at least 20 percent, Ms. Lewis would need to allege a value equal to or less than \$137,520. She claims the value should only be reduced to \$141,000, which represents an error of 18 percent. With no error of 20 percent being alleged, the court finds it lacks authority to accept jurisdiction over this appeal. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that this matter be dismissed.

Dated this ____ day of March, 2001.

COYREEN R. WEIDNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON MARCH 9, 2001. THE COURT FILED THIS DOCUMENT ON MARCH 9, 2001.