

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

GARY GORSKI, )  
 )  
 Plaintiff, ) No. 010049B  
 )  
 v. )  
 )  
 CLACKAMAS COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

A case management conference was held on April 9, 2001. Gary Gorski participated on his own behalf; Joe Honl represented the defendant.

Plaintiff has appealed to the court for a proration of property taxes for the 2000-01 property tax year as a result of a fire that damaged his home. Defendant denied plaintiff's request because the application required by ORS 308.425 was not timely filed.

**STATEMENT OF FACTS**

Plaintiff's home was damaged by fire on January 1, 2000. The cost of repairs was \$25,000. The renovation was completed on June 14, 2000.

Plaintiff was earlier unaware of any alternative that would reduce his taxes to reflect a loss in value due to fire. He first learned of the possibility when defendant's appraiser visited the property in November of 2000.

Plaintiff then signed an application seeking retroactive relief on December 29, 2000. Defendant received that application on January 3, 2001. It was denied as untimely.

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**COURT'S ANALYSIS**

There are several forms of relief available to a taxpayer whose property is

destroyed or damaged by fire (or act of God) under facts similar to those here at issue.

The particular form of relief available depends on the date of the fire. All available remedies in this case, however, require a timely application. For that reason, the court cannot grant any relief because plaintiff missed the mandatory deadlines.

### Proration of Taxes

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

“(1) If, during any tax year, any real or personal property is destroyed or damaged by fire or act of God, the owner or purchaser under a recorded instrument of sale in the case of real property, \* \* \* may apply to the tax collector for proration of the taxes imposed on the property for the tax year.”  
ORS 308.425.

A taxpayer can have his taxes prorated for an event (fire or act of God) that occurs at any time during the tax year. The tax year is a 12-month period beginning July 1. ORS 308.007(1)(c). The fire in this case took place on January 1, 2000, which was during the 1999-00 tax year (which ran from July 1, 1999, to June 30, 2000). A proration of taxes would have covered the 1999-00 tax year. However, plaintiff is not entitled to a proration of taxes for a portion of the 1999-00 tax year because the application he filed in January 2001 was filed beyond the statutory deadline.

The statute 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). An application is necessary as evidenced by the legislature’s use of the word “shall”. Plaintiff had until June 30, 2000, to file the application with the tax collector. Plaintiff missed the deadline by several months.

### Value Redetermination

Another form of relief, which is available when, as in this case, the fire occurs during the first six months of the *assessment year*<sup>1</sup> (but prior to the beginning of the tax year), is to have the value of the property redetermined as of July 1. The statute reads in part:

“(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.

By statute, the assessment date is January 1. See ORS 308.007 and 308.210.

This is the date on which the assessor generally determines the (market) value of the property for the upcoming tax year, which begins on July 1. ORS 308.007(2)(a). When property is destroyed by fire after the January 1 assessment date but before the beginning of the tax year (July 1), the taxpayer can have the value (real market and assessed value) determined as of July 1 of the current assessment year.

ORS 308.428(1). But here, all repairs were completed before July 1, 2000. Therefore, there may not have been any real reduction in value at that date.

Since, under ORS 308.007(2)(b), the term “year” means assessment year, which is statutorily equated with calendar year (ORS 308.007 (1) (b)), plaintiff had until August 1, 2000, to file an application with the assessor requesting that the property be valued as of July 1, 2000. Plaintiff missed that deadline. As with the tax proration provision, the filing of an application here is necessary.

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### **CONCLUSION**

Because plaintiff missed the filing deadlines applicable to both the proration of

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<sup>1</sup> Under ORS 308.007(1)(b), the assessment year “means calendar year.”  
DECISION

taxes available under ORS 308.425 and the redetermination of value as of July 1 available under ORS 308.428 and 308.146(6), the court cannot grant either form of relief. Now, therefore;

IT IS THE DECISION OF THE COURT that plaintiff's appeal is denied for failure to meet the statutorily required filing deadlines as set forth above.

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

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JEFF MATTSON  
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 97301-2563. 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 JEFF MATTSON ON APRIL 18, 2001. THE COURT FILED THIS DOCUMENT ON APRIL 18, 2001.**