

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

GIORGIO PAPADOPOLO,)
)
 Plaintiff,) No. 010070E
)
 v.)
)
 WASHINGTON COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff appeals defendant's omitted property assessment for tax years 1990-91 through 1994-95.¹ Trial in the matter was held April 3, 2001.² Rita Papadopoli appeared on behalf of plaintiff (taxpayer). Tony Rosatti, Residential Supervisor, appeared on behalf of defendant (the county).

STATEMENT OF FACTS

The subject property is a mobile home unit purchased by taxpayer in 1988.³ Before moving the home to its current location in the Heritage Village Park, taxpayer obtained a trip permit from the county's offices. While there, the county gave taxpayer the address of the site to which he and his wife were moving the home. Taxpayer and his wife have lived at this site since 1988.

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¹ The Complaint states plaintiff is appealing tax years 1998-99 through 2000-01. During the proceeding, Ms. Papadopoli clarified plaintiff is only seeking removal of the taxes for the years the property was added to the roll as omitted property.

² The court converted the proceeding from a case management conference into a trial based on the parties' representation they were prepared for the court to make a ruling on the case.

³ The mobile home is assessed as personal property and is identified in the county's records as Account No. M2048576.

When purchasing the home, it was taxpayer's understanding a tax reserve fund was set up by the mortgage company. The mortgage subsequently changed hands several times. In 1995, an acquaintance asked taxpayer what the taxes were on the home. It was at this time taxpayer realized he had never received a tax statement for the home. Believing the mortgage company was receiving the statements and paying the taxes, taxpayer contacted the mortgage holder at that time and was advised it did not have a tax fund for him and his wife, and it had never received a tax statement for the property.

Taxpayer then went to the county's office to inquire about the taxes on the home. It was at this time the county discovered it had not added the home to the tax roll. As a result, the county had never assessed a tax on the home. The county proceeded to add the home to the current roll. It also added the home as omitted property to the tax rolls for tax years 1990-91 through 1994-95. Notice of the county's intentions was sent to taxpayer on May 24, 1995. Taxpayer returned the notice with a check mark next to the box indicating he agreed with the correction. Not being able to pay the assessed liability, taxpayer worked out a payment plan with the county.

Years later, after experiencing rising rents and increased medical problems, taxpayer and his wife began to evaluate their financial situation. Friends of theirs encouraged them to challenge the back taxes they are still paying on the home. Taxpayer contacted the county and realized that, of his \$50 a month payment, at least half was going to interest. Taxpayer owes over \$8,000 in back taxes and interest and, given his current payment plan, it is unlikely he will be able to pay off the debt. Given their financial situation, taxpayer appeals asking the court to relieve him and his wife of

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the omitted property assessment. The county agrees it is unlikely taxpayer will be able to

pay off the liability but sees no way to cancel it.

COURT'S ANALYSIS

In May of 1995, the county sent taxpayer notice that it was adding the home to the tax roll for tax years 1990-91 through 1994-95. Now, six years later, taxpayer has filed an appeal challenging the assessment. Unfortunately, Oregon law requires that a taxpayer timely challenge an assessment. For omitted property, a taxpayer in 1995 was supposed to appeal to the Department of Revenue within 90 days after the county corrected the roll.⁴ Taxpayer has clearly missed this deadline. Furthermore, he notified the county that he in fact agreed with the correction. As a consequence, the court is unable to provide taxpayer with any relief.

The court certainly understands the hardship this liability has placed on taxpayer and his wife. Furthermore, by the county's own admission, had it not been for taxpayer coming forward in 1995, it is quite possible the county would not have discovered the omission and the property would have gone untaxed. But for taxpayer's honesty and integrity, he and his wife would not be in this situation. It is unfortunate the county did not choose to simply add the home prospectively to the roll in 1995. It did not and, as a result, taxpayer owes taxes on the prior years. Any basis for removing the liability for tax years 1990-91 through 1994-95 had to be challenged within 90 days of when the property was

⁴ ORS 311.207 to 311.215 govern the addition of property to the tax roll as omitted property. ORS 311.211(4) sets forth how and when a taxpayer must appeal from an omitted property notice. It states:

“(4) Any person aggrieved by an assessment made [under the omitted property statutes] may appeal to the Department of Revenue within 90 days after the correction of the roll by giving notice to the assessor and otherwise proceeding in the manner provided for appeals from the board of equalization.”

added to the roll. Having not timely appealed, the court lacks authority to grant taxpayer relief in this case.

Mr. Rosatti was clear during the proceeding that the county empathizes with taxpayer and is seeking ways to assist him and his wife with the liability. The court would point him toward ORS 311.790 (1999), which provides that if the tax collector and district attorney decide, for whatever reasons, that a delinquent tax is uncollectible, they may petition this court for an order canceling the tax.

CONCLUSION

It is the conclusion of this court that it lacks authority to provide taxpayer with relief because he did not timely challenge the omitted property notice. Now, therefore;

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

Dated this _____ day of April, 2001.

COYREEN R. WEIDNER
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 COYREEN R. WEIDNER ON APRIL 13, 2001. THE COURT FILED THIS DOCUMENT ON APRIL 13, 2001.