

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

COASTAL MASONRY AND STEVEN L.)	
COLE,)	
)	No. 010082F
Plaintiffs,)	
)	
v.)	
)	
LINCOLN COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT

This matter is before the court on plaintiffs' appeal concerning personal property for tax year 2000-01. A trial was held on May 22, 2001.¹ Steven Cole appeared for plaintiffs. Kathy Lieb, Appraiser, appeared on behalf of defendant. The property is identified in Lincoln County tax records as Account Number P513390.

STATEMENT OF FACTS

Coastal Masonry is a small business owned and operated by Mr. Cole. He has operated the business for approximately 20 years. He owns the real property where his business is located. The real property also contains his personal residence. The property has a mailing address of 06905 Hwy 101, in Yachats. Yachats is located in Lincoln County. The real property, however, is actually located in Lane County. Neither Coastal Masonry or Steven Cole owns any real property in Lincoln County. Mr. Cole testified that the personal property associated with the business is located at the real property.

The personal property at issue consists of a mortar mixer, a Skil saw, a brick saw, various hand tools and garden hoses. He estimates that the total value of the equipment to

¹The matter was converted from a case management conference with the agreement of the parties.

be no more than \$750. He testified that at one point in time he owned a caterpillar. When he owned the caterpillar he consistently filed personal property returns with Lane County.

When defendant saw the Yachats mailing address, it requested that plaintiffs file a personal property return. Mr. Cole ignored the request because he knew the property was located in Lane County. Eventually, defendant filed a lien against plaintiffs. Mr. Cole satisfied the lien. He now asks for the return of his money.

COURT'S ANALYSIS

ORS 308.105(1) requires that “[e]xcept as otherwise specifically provided, all personal property shall be assessed for taxation each year at its situs as of the day and hour of assessment prescribed by law.” The assessment date for tax year 2000-01 was January 1, 2000. See ORS 308.007 and 308.210(1).

Additionally, in cases where, “the total assessed value of all taxable personal property required to be reported * * * in any county of any taxpayer is less than \$10,000 in any assessment year, the county assessor shall cancel the ad valorem tax assessment for that year.” ORS 308.250(2).

In any proceeding before the Magistrate Division, the party seeking affirmative relief bears the burden of proof. ORS 305.427. Mr. Cole was a credible witness. While the record before the court is less than substantial, the court finds it is sufficient to persuade the court that the personal property at issue was physically located in Lane County on January 1, 2000.

Additionally, even if it had been located in Lincoln County on January 1, 2000, the value of the property was worth substantially less than \$10,000.

CONCLUSION

Through an honest mistake, defendant collected property taxes for personal property that was not within its jurisdiction as of the assessment date of January 1, 2000. Additionally, even if the property had been within its jurisdiction, the property is worth substantially less than \$10,000. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that defendant shall promptly refund all amounts paid against Account Number P513390. The refund shall include statutory interest pursuant to ORS 311.806(2)(d).

IT IS FURTHER ADJUDGED AND DECREED that defendant shall delete Account Number P513390 from its assessment and taxation rolls.

Dated this _____ day of May, 2001.

SALLY L. KIMSEY
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON
MAY 24, 2001 . THE COURT FILED THIS DOCUMENT ON MAY 24, 2001.**