

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

ESTATE OF ROY LUCIER,)	
)	
Plaintiff,)	No. 010103D
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR)	
)	
Defendant.)	DECISION OF DISMISSAL

Plaintiff appeals the real market value of its property described as Multnomah County Assessor's Account No. R212554.

Case management conferences were held in the above-entitled matter on March 28, 2001, and June 11, 2001. Ms. Roxanne Checkor, Personal Representative, appeared on behalf of plaintiff. Ms. Linda U'Ren, Appraiser, appeared on behalf of defendant.

During the conference, the parties discussed the Oregon property tax system which was changed for tax years beginning July 1, 1997. Plaintiff alleged that the real market value of the property was substantially less than the roll value which was \$167,900 for tax year 1999-2000 and \$171,260 for tax year 2000-2001. The parties confirmed that the property sold on May 15, 2001, for \$148,000. Plaintiff appealed because it believes that the real market value of the property was overstated and requested that the tax roll be changed for the current tax year 2000-2001 and two prior years.¹ It was explained to Ms. Checkor that the assessed value for tax year 2000-2001 was \$135,900, which was the amount used to compute plaintiff's property taxes.

¹Plaintiff's Complaint alternatively appealed the "last 5 years." The court advised plaintiff that it did not have the jurisdiction to hear more than the current year and two prior years. See ORS 305.288. Plaintiff orally amended its Complaint.

Ms. U'Ren explained that because the parties are in agreement that the real market value is \$148,000 for the current year and two prior years plaintiff's property taxes would be reduced. The court was ready to prepare its Decision of Stipulation because the parties are in agreement and plaintiff is aggrieved. However, when a taxpayer fails to appeal to BOPTA and appeals directly to the tax court, the court's authority to grant relief is limited by certain additional hurdles (ORS 305.288) imposed on the taxpayer by the legislature. The taxpayer must either allege a substantial error in the real market value of the property (at least 20 percent) or provide a good reason (good and sufficient cause) for failing to petition BOPTA before appealing to the tax court. Based on the agreement of the parties, the difference between the roll value and the agreed real market value is not equal to or more than 20 percent, resulting in plaintiff failing to allege a substantial error. During the first case management conference, Ms. Checkor stated that she was unaware why her father, Roy Lucier, had not filed an appeal with BOPTA at any time prior to his death. Without any evidence, the court cannot find good and sufficient cause. Since plaintiff does not meet the statutory requirements of ORS 305.288, the court has no jurisdiction and must grant defendant's Motion to Dismiss which was filed as part of defendant's Answer on February 27, 2001.

Because the parties are in agreement, plaintiff could submit a letter to the Director of the Oregon Department of Revenue for review and consideration. The Director has supervisory authority "over the system of property taxation throughout the state." ORS 306.115. Plaintiff's written statement could include the fact that the parties have agreed that the real market value of plaintiff's property for tax years 1998-1999, 1999-2000 and 2000-2001 was \$148,000. It is customary for the Director to issue a written response after reviewing the facts and, in most cases, consulting with the county. Now, therefore;

IT IS THE DECISION OF THE COURT that defendant's Motion to Dismiss is granted.

Dated this _____ day of June, 2001.

JILL A. TANNER
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 JILL A. TANNER ON JUNE 20, 2001. THE COURT FILED THIS DOCUMENT ON JUNE 20, 2001.