

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

WAT BUDDHA OREGON,)
)
 Plaintiff,) No. 010114C
)
 v.)
)
 MARION COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on defendant raising the issue in its Answer, filed March 26, 2001, that plaintiff failed to appeal within the 90 days required by ORS 305.280(1). The issue of timeliness was discussed with the parties during the April 24, 2001, telephone hearing. Ms. Sarapee Udom appeared for the plaintiff. Mr. Jeff Procter appeared for the defendant.

In its Complaint, plaintiff requests an exemption on a manufactured home for the 2000-01 tax year. According to the information presented to the court at the hearing plaintiff filed an exemption application March 22, 2000. The application was denied by the defendant by letter dated October 2, 2000. The stated reason for the denial in the county's October letter is that "the manufactured structure located on this property was not owned by the Temple as of 7/01/2000." (Plaintiff's Complaint, at 4.) The letter advised plaintiff it could appeal the decision to the Magistrate Division of the Oregon Tax Court within "90 days from the date you receive this letter." *Id.* Plaintiff's Complaint was filed with the court on February 13, 2001.

Appeals to the Magistrate Division are authorized by ORS 305.275. The time for filing appeals is set forth in ORS 305.280. In this case, plaintiff had 90 days from the date

it received the county's letter denying the application to file a Complaint with the court. ORS 305.280 (1). Ms. Udom was uncertain as to the date the county's denial letter was received by the Temple. In the absence of evidence to the contrary, the court assumes the letter was mailed on October 2, 2000, which was a Monday, and was received by the Temple no later than Friday, October 6, 2000.¹ Plaintiff therefore had until approximately January 4, 2001, to file its Complaint with the court. Plaintiff missed the deadline by more than one month. Accordingly, the appeal is late and defendant's Motion is granted.

The court being fully advised, now, therefore,

IT IS THE DECISION OF THE COURT that defendant's Motion to Dismiss is allowed and the Complaint is dismissed.

Dated this _____ day of May, 2001.

DAN ROBINSON
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 DAN ROBINSON ON MAY 2, 2001. THE COURT FILED THIS DOCUMENT ON MAY 2, 2001.

¹The Temple is in Turner, Oregon, which is adjacent to Salem, Oregon, where the Assessor's Office is located. Typically mail would be delivered that distance in no more than three days.