

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

DR. M. HAYDEN SEARS AND SANDRA C. SEARS, )  
)  
) No. 010121F  
Plaintiffs, )  
)  
v. )  
)  
LANE COUNTY ASSESSOR and )  
DEPARTMENT OF REVENUE, )  
STATE OF OREGON, )  
)  
Defendants. ) **DECISION**

This matter is before the court on plaintiffs' appeal of interest imposed for unpaid property taxes for tax years 1996-97, 1997-98, 1998-99 and 1999-2000. The property is identified as Lane County Assessor's Account No. 0982015. A trial<sup>1</sup> on the matter was held on April 24, 2001. Hayden Sears appeared for plaintiffs. Gloria Rogers appeared for defendant Lane County. Douglas Adair, Assistant Attorney General, represented defendant Department of Revenue.

**STATEMENT OF FACTS**

Plaintiffs purchased an existing airplane hanger in 1992 from Al Miller. The sale was not recorded in the Lane County property records. The sale, however, was recorded with the city of Florence. Mr. Sears testified that the city of Florence was supposed to notify Lane County of the ownership change. The hanger was located at the Florence Municipal Airport. When Mr. Miller sold the hanger to the plaintiffs, he also assigned the lease he had with the city of Florence to the plaintiffs. The city of Florence accepted the

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<sup>1</sup>This proceeding was originally convened as a case management conference. It was converted to a trial with the agreement of the parties.

assignment. Plaintiffs started paying the monthly lease to the city. Unfortunately, no one notified Lane County that plaintiffs now owned the hangar.

Until recently plaintiffs did not receive any property tax statements for the subject property. The county initially sent the tax statements to the prior owner, Al Miller. The tax statements included tax years 1992-93 through 1999-2000. Mrs. Miller ultimately paid tax years 1992-93 through 1995-96, to prevent the property from going into foreclosure. By the time plaintiffs became aware the property taxes had not been paid for a number of years, defendant had added interest owing to the account. Plaintiffs do not dispute that they owe the taxes; they dispute only the interest. Mr. Sears testified that he and his wife lived in Lane County for eleven years and own other property in the county. He believes the county could have found them, had they looked.

### **COURT'S ANALYSIS**

Property owners are required by ORS 311.555 to furnish their correct address to their county tax collector. No one notified Lane County of the ownership change. Through no fault of defendant, plaintiffs did not receive the tax statements and did not pay the taxes owed. When taxes are not timely paid, defendant was required by the operation of ORS 311.505(2) to impose interest. That statute provides that “[i]nterest **shall** be charged and collected on any taxes on property \* \* \* or installment thereof not paid when due, at the rate of one and one-third percent per month, or fraction of a month until paid.” (Emphasis added.) Defendant properly imposed the interest.

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## CONCLUSION

While the court has sympathy for plaintiffs' position, it is required to uphold the statute. The imposition of interest in plaintiffs' situation is mandatory. See ORS 311.505(2). Now, therefore,

IT IS THE DECISION OF THE COURT that plaintiffs' appeal is denied.

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

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SALLY L. KIMSEY  
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 SALLY L. KIMSEY ON APRIL 26, 2001. THE COURT FILED THIS DOCUMENT ON APRIL 26, 2001.**