

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

LINDA W. CHANG,)	
)	
Plaintiff,)	No. 010124E
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on defendant's Motion to Dismiss, which was filed as part of its Answer on March 15, 2001. The court discussed the motion with the parties during the case management conference held May 1, 2001. Jane Denker, Real Estate Broker, appeared on behalf of plaintiff. Beth Fast, Appraiser, appeared on behalf of defendant (the county).

STATEMENT OF FACTS

Plaintiff appeals the 1998-99, 1999-2000, and 2000-01 real market values assigned to the property that was once her home.¹ In the fall of 2000, plaintiff decided to sell her home. She initially believed her home would sell for around \$200,000 because the county had assigned the property a real market value of \$176,900. After listing the property at \$189,000 and receiving no offers, Ms. Denker advised plaintiff to have the property appraised. The appraised value came in at \$155,000 and plaintiff subsequently sold the home for this amount. She now appeals the prior years claiming the county overvalued her property. The county assigned the following values to the property for each

¹ The property is identified in the county's records as Account No. R312176 (old number - R92660-3800).

contested year:

<u>Tax Year</u>	<u>Real Market Value</u>	<u>Assessed Value</u>
1998-99	\$165,300	\$112,810
1999-2000	\$176,900	\$116,900
2000-01	\$176,900	\$119,670

Plaintiff claims the real market value should be reduced to \$155,000. The county moves to dismiss the case because plaintiff failed to timely appeal each tax year to the county board.

COURT'S ANALYSIS

The Oregon Legislature has developed a system for taxpayers to challenge the assessed and real market values assigned to their properties. The first step in the appeal process is to a county board of property tax appeals. Taxpayers are required to file appeals with the appropriate county board by December 31 of the current tax year. ORS 309.100(2).²

The legislature recognized situations may exist that prevent a taxpayer from timely appealing to the county board. As a result, the legislature granted the court authority to hear untimely property tax appeals when the taxpayer either establishes "good and sufficient cause" for not timely pursuing her appeal with the county board or alleges an error of equal to or greater than 20 percent. ORS 305.288.

Good and Sufficient Cause

ORS 305.288(3) states:

"The tax court may order a change or correction * * * to the assessment or tax roll for the current tax year and for either of the two tax years immediately preceding the current tax year if, for the year to which the change or correction is applicable the * * * taxpayer has no statutory

² All references to the Oregon Revised Statutes are to 1999.

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right of appeal remaining and the tax court determines that **good and sufficient cause exists for the failure by the * * * taxpayer to pursue the statutory right of appeal.**” (Emphasis added.)

The statute defines good and sufficient cause as follows:

“Good and sufficient cause’:

“(A) Means an **extraordinary circumstance that is beyond the control of the taxpayer**, or the taxpayer’s agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the statutory right of appeal; and

“(B) **Does not include** inadvertence, oversight, **lack of knowledge**, hardship or reliance on misleading information provided by any person except an authorized tax official providing the relevant misleading information.” ORS 305.288(5)(b) (emphasis added).

Plaintiff did not timely appeal the subject tax years because she did not realize her property was overvalued until she attempted to sell it. At that time, she became aware the county had overvalued her property and, as a consequence, she filed this appeal seeking a reduction in the property’s real market value. Unfortunately, the statute is clear that “good and sufficient cause” is an “extraordinary circumstance” that does not include “lack of knowledge.” *Id.* Plaintiff’s lack of knowledge about the true value of her home is not extraordinary and does not constitute good and sufficient cause as defined by the statute.

Gross Error

The court may also consider plaintiff’s appeal if she alleges and demonstrates an error of equal to or greater than 20 percent. See ORS 305.288(1). Plaintiff admittedly has not alleged such an error. As a consequence, the court finds it lacks jurisdiction to consider plaintiff’s appeal under ORS 305.288 because plaintiff failed to timely pursue

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her statutory remedies and she does not meet the requirements of ORS 305.288.³ Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that this matter be dismissed.

Dated this ____ day of May, 2001.

COYREEN R. WEIDNER
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON
MAY 4, 2001. THE COURT FILED THIS DOCUMENT ON MAY 4, 2001.**

³ As discussed at the conference, the county is required to maintain two values on the tax roll: maximum assessed value and real market value. A taxpayer generally pays taxes on the lesser of the two values. In this case, even if the court ordered the real market value reduced to \$155,000, as requested by plaintiff, the reduction would not reduce her tax burden because the maximum assessed value of the property for the contested years was significantly less than \$155,000.