

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

ROGER RUSSELL and RUSSELL	)	
REVOCABLE TRUST,	)	
	)	
Plaintiffs,	)	No. 010128C
	)	
v.	)	
	)	
LANE COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION AND JUDGMENT</b>

Plaintiffs have appealed the imposition of interest by the county tax collector on delinquent taxes for tax years 1996-97, 1997-98, 1998-99, and 1999-00. The case management hearing scheduled for April 16, 2001, was converted to trial with the consent of the parties to facilitate an expeditious resolution of the appeal. Mr. Russell appeared for the plaintiffs. Ms. Gloria Rodgers appeared on behalf of defendant.

**STATEMENT OF FACTS**

Mr. Russell's mother lives in the subject property, which is a manufactured home with an attached garage and located in a senior park in North Eugene. The home sits on a lot leased from the park owners. The home was purchased by the plaintiffs in 1996. The garage was attached to the home at the time of purchase. The previous owner was Barbara Hartford, who now lives in Tucson, Arizona. The assessor's office carries the property on two separate accounts, one for the manufactured home and the other for the garage. Consequently, two separate tax statements are mailed each fall. Prior to plaintiffs' acquisition of the property both tax statements were mailed to the previous owner. After plaintiffs acquired the property the tax statement for the manufactured home was mailed to the trustee for the trust (plaintiffs) and the statement for the garage was

mailed to the previous owner in Arizona. This practice apparently continued from 1996 until 2000. Ms. Rogers explained that for reasons unknown to her the county neglected to make the name and address correction in its records for the garage when it updated its records for the manufactured home. The error was picked up by the county in August 2000. Ms. Rogers further testified that the tax statements for the garage, which were mailed to Tucson, Arizona, were “probably” returned by the Postal Service, although there is no indication of that in its records.

### **COURT'S ANALYSIS**

Plaintiffs request that the interest be waived because they only received one tax statement each year and at the time of closing the title company provided a Certification of Taxes showing only one tax account number (# 4185003). It was not until October 2000 that plaintiffs received two tax statements. Plaintiffs argue that “[s]ince the home and garage have a common roof, and appear to be a single structure, there was no reason for us to even expect a second tax bill.” (Plaintiff’s Complaint, at 2).<sup>1</sup>

The law imposes responsibilities on both the government and the taxpayer. Property owners are statutorily required by ORS 311.555 to keep the tax collector informed of their "true and correct address" and, under ORS 308.212, to notify the assessor of any change of address within 30 days of the date of the change. The county tax collector, in turn:

“shall note upon the tax roll, or in any other manner the tax collector deems most feasible, the true and correct address of each person, firm or corporation owning real or personal property in this state, as furnished under ORS 311.555 or as otherwise ascertained by the tax collector.” ORS 311.560.

---

<sup>1</sup> Reference is made to a letter submitted by plaintiffs with the Complaint and dated February 17, 2001. The quoted language appears in the fourth paragraph.

And, the collector is to mail tax statements to the record owners of all real and personal property. ORS 311.250(1). Here, the taxpayers informed the tax collector of their “true and correct address” and the tax collector failed to note that address on the roll, as required by ORS 311.560. As a result, the statement pertaining to the garage was mailed to the former owner, who was still listed incorrectly as the record owner. Because the tax statement was not mailed to the plaintiffs, the tax was not paid. The taxes became delinquent on May 15 of the calendar year following the mailing of the tax statement. Under ORS 311.545, the tax collector was to send a notice of delinquent taxes to the owner of record. If it did so, that notice, like the tax statements, went to Barbara Hartford in Arizona.

However, actual receipt of the tax statement is not required. ORS 311.250(2) provides that:

"[t]he failure of a taxpayer to receive the statement described in this section shall not invalidate any assessment, levy, tax, or proceeding to collect tax."

Here, plaintiffs do not contest their liability for the tax. They only challenge the interest.

ORS 311.565 provides:

"[t]he failure of the tax collector to keep true and correct addresses, as provided in ORS 311.560, or to give the notice in the manner and form as provided for by ORS 311.545 to 311.550, shall not invalidate any proceeding to collect taxes, but shall subject the tax collector to any damages sustained by any person injured by the failure of the tax collector to keep the addresses or to give the notice." (Emphasis added.)

This court has repeatedly relied upon the damages language in ORS 311.565, as set forth above, to cancel the interest imposed for late payment of taxes when the delay is due to the collector's failure to note the correct address on the tax roll. See, e.g., *Argo Investment Corp. v. Marion County Assessor*, OTC-MD No. 991105E, (Nov. 5, 1999), *Jeffry W. and Tammy M. Powell v. Lane County Assessor*, OTD-MD No. 991429B (Mar. 15, 2000), and *Clara M. Neal, Trustee v. Lane County Assessor*, OTD-MD No. 991436B

(April 3, 2000). The court finds the same result is in order in this case. The collector was notified of the change of address in 1996 and failed to update its records for some four years. Plaintiffs should be held responsible for the tax, but the imposition of interest is inappropriate under these facts.

### **CONCLUSION**

Plaintiffs property taxes for tax years 1996-97, 1997-98, 1998-99 and 1999-00 were not timely paid because the county failed to update the tax rolls upon being notified of a change in ownership. The court finds that the county must cancel the interest under ORS 311.565. The relief requested by the plaintiffs is granted. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that the interest imposed by defendant on the property identified as Lane County Assessor's Account No. 1501095, for tax years 1996-97, 1997-98, 1998-99 and 1999-00, is abated.

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

---

DAN ROBINSON  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON APRIL 18, 2001. THE COURT FILED THIS DOCUMENT ON APRIL 18, 2001.**