

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

MEDARD CRONIN,)	
)	
Plaintiff,)	No. 010157F
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant,)	
)	
and)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant-Intervenor.)	DECISION OF DISMISSAL

This matter came before the court on defendant-intervenor's Motion to Dismiss, filed on March 30, 2001, requesting that the Complaint be dismissed because the appeal was not timely filed.

This appeal concerns the real market value of plaintiff's property for the 2000-01 tax year. The property is identified in the Multnomah County tax records as Account Number R227526. No petition was earlier submitted to the County Board of Property Tax Appeals. The first, and only, complaint was filed with the Magistrate Division on February 27, 2001.

To contest assessed values, taxpayers typically must appeal to their County Board of Property Tax Appeals by December 31 of each tax year. ORS 309.100. Plaintiff admits he did not timely appeal for the year at issue. Taxpayers owning industrial property may elect to file their complaint directly with the tax court. See ORS 305.403. Taxpayers

electing to file their complaint directly with the court must file their complaint "within the time otherwise prescribed for filing an appeal to the board of property tax appeals." ORS 305.403(2). As noted above, an appeal filed with a County Board of Property Tax Appeals must be filed by December 31. ORS 309.100(2). Plaintiff's Complaint was simply filed too late.

The legislature has given the court limited authority to consider appeals when the party did not first appeal to the board of property tax appeals. ORS 305.288(3) states:

"The tax court may order a change or correction applicable to a separate assessment of property to the assessment or tax roll for the current tax year * * * if, * * * the assessor or taxpayer has no statutory right of appeal remaining and the tax court determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal."

Good and sufficient cause is "an extraordinary circumstance that is beyond the control of the taxpayer[.]" ORS 305.288(5)(b)(A). Further, good and sufficient cause "[d]oes 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)(B).

Plaintiff offered no real reason for his failure to timely appeal the 2000-01 assessed value other than it took time to learn the correct appeal procedure. Consequently, the court cannot reach the 2000-01 tax year under the good and sufficient cause provision.

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IT IS THE DECISION OF THE COURT that the above-entitled matter be dismissed.

Dated this _____ day of May, 2001.

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 MAY 15, 2001. THE COURT FILED THIS DOCUMENT ON MAY 15, 2001.