

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

PACIFIC RIM EXPRESS, INC., dba)	
SUGAR DADDY'S,)	
)	
Plaintiff,)	No. 010167C
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

This matter is before the court on its own motion to determine whether the provisions of ORS 305.288 are satisfied, plaintiff having failed to follow the statutory right of appeal by first petitioning the County Board of Property Tax Appeals (board) before coming to the court. ORS 305.275(3).¹

A hearing was held by telephone on April 25, 2001, to explore the issue of good and sufficient cause as set forth in ORS 305.288(3) and other matters related to plaintiff's appeal. Mr. Michael Higley appeared for the plaintiff. Mr. Chris Johnson appeared for the defendant.

STATEMENT OF FACTS

Plaintiff did not petition the county board before the December 31, 2000, deadline because it did not receive the property tax statement until after that date. The reason for the delayed receipt of the tax statement was that plaintiff changed its mailing address in August or September 2000, after filing the personal property tax return in February and

¹References to the Oregon Revised Statutes (ORS) are to 1999.
DECISION

before the tax statement was mailed in late November or early December. The tax statement was apparently forwarded by the U.S. Postal Service and reached plaintiff around the middle of January 2001. Mr. Higley promptly called the assessor's office to discuss the value of \$18,950 because it was significantly higher than the \$1,750 amount he reported on the return. Mr. Higley was advised that it was too late for the assessor's office to consider the matter and that the only recourse was to file a complaint with the Tax Court, Magistrate Division. That interaction occurred on January 23, 2001. Plaintiff's complaint was filed with the court on March 3, 2001.

COURT'S ANALYSIS

The court cannot consider the underlying valuation issue unless plaintiff establishes "good and sufficient cause" for failing to pursue the statutory right of appeal as provided in ORS 309.100. ORS 305.288(3). Good and sufficient cause is statutorily defined as:

"an extraordinary circumstance that is beyond the control of the taxpayer * * *, and that causes the taxpayer * * * to fail to pursue the statutory right of appeal." ORS 305.288(5)(b)(A).

Specifically excluded from the definition are:

"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).

Mr. Higley's explanation for failing to petition the board is that he did not receive the property tax statement until after December 31, 2000. He further explained that he did not find it unusual that he did not receive a tax statement because the value reported on the personal property return he completed in February showed a value of \$1,750, which is well below the \$10,000 threshold for tax liability on personal property. ORS 308.250(2). While

that may be true, the assessor's office adjusted the value because it believed certain items were not reported. The tax statement showed the redetermined value of \$18,950. It is this number that alarmed Mr. Higley and prompted him to call the assessor's office when he received the statement in mid-January. However, had plaintiff notified the assessor's office of the change of address within 30 days of the date of the change, as required by ORS 308.212, the records would presumably have been changed in time for the tax statement to be mailed to the new (and correct) address. Plaintiff would have received the statement in time for a timely petition to the board. Thus, while Mr. Higley's explanation for failing to petition the board before December 31 is quite reasonable it falls short of the statutory definition of good and sufficient cause because, in the final analysis, it was the delayed receipt of the property tax statement that caused him to miss the board deadline and receipt of the tax statement was delayed because plaintiff did not inform the assessor of the company's new mailing address, as required by statute.

CONCLUSION

The court is unable to consider plaintiff's request for a reduction in the value of its personal property because plaintiff did not petition the board for relief before appealing to the court and the reason for that omission does not rise to the level of good and sufficient cause, as explained above.

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IT IS THE DECISION OF THE COURT that plaintiff's Complaint must be

dismissed.²

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 8, 2001. THE COURT FILED THIS DOCUMENT ON MAY 8, 2001.

²Plaintiff was advised by the court to consider pursuing relief from the Oregon Department of Revenue under ORS 306.115 because the county's representative indicated he believed the trended roll value was excessive.