

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

A & M WAREHOUSE, INC.,)
)
 Plaintiff,) No. 010297C
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Following the filing of the Complaint in this matter the parties submitted a Stipulated Agreement to the court proposing to reduce the real market value of the subject property from \$301,000 to \$118,670. A case management conference was held by telephone on July 10, 2001, to review the matter under the provisions of ORS 305.288(3).¹ Plaintiff appeared through Mr. Barry Thomas. Mr. Dan Howard represented the defendant.

STATEMENT OF FACTS

The property at issue is personal property owned by the plaintiff and used in connection with a business in Portland. Plaintiff is headquartered in Auburn, Washington. Plaintiff was late in filing the personal property return for the 2000-01 tax year. A penalty for late filing was added to the tax due. The tax statement was mailed to the business in Portland and forwarded to headquarters in Washington. Little attention was paid to the bill at that time. Later, when plaintiff was actually paying the bill, the penalty was discovered and inquiries made. During the course of Mr. Thomas's conversations with individuals in the county assessor's office the parties became aware that the value on the tax rolls greatly exceeded the value of the property actually in existence. Mr. Thomas was advised that he

¹ All references to the Oregon Revised Statutes are to 1999.
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could file a complaint with the Magistrate Division of the Oregon Tax Court to challenge the roll value. This appeal followed.

COURT'S ANALYSIS

Plaintiff's appeal was filed directly with the court. Plaintiff did not first file a petition with the County Board of Property Tax Appeals (board). As the court explained during the hearing, it cannot accept the parties' agreement unless plaintiff can establish "good and sufficient cause" for not properly pursuing the statutory right of appeal by first petitioning the board. The term good and sufficient cause is 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). It "[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).

In this case, the reason no petition was filed with the board was that plaintiff was unaware of the valuation error until after the deadline for filing a petition. Mr. Thomas testified that it was the penalty that first caught his attention and that the overvaluation did not become apparent until he undertook a thorough inventory of the property. This occurred in calendar year 2001 and formed the basis of the parties' stipulated agreement reducing the value. The deadline for petitioning the board was December 31, 2000. ORS 309.100.

CONCLUSION

Because the subject property is personal property and the facts do not establish

that plaintiff was prevented from petitioning the board by reason of extraordinary circumstances beyond its control the court cannot accept the parties' stipulated agreement. Accordingly, plaintiff's complaint must be dismissed.

IT IS THE DECISION OF THE COURT that plaintiff's complaint is dismissed.

Dated this _____ day of July, 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 JULY 19, 2001. THE COURT FILED THIS DOCUMENT ON JULY 19, 2001.