

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

COLUMBIA COUNTY ASSESSOR, )  
 )  
 Plaintiff, ) No. 010367C  
 )  
 v. )  
 )  
 MILTON AND DORETTA DENNIS, )  
 )  
 Defendants. ) **DECISION OF DISMISSAL**

This matter came before the court on defendants' Motion to Dismiss, filed on April 18, 2001, requesting that the Complaint be dismissed because plaintiff failed to serve a copy of the Complaint on the defendants by certified mail within 30 days of the mailing of the order of the County Board of Property Tax Appeals (board). The case was calendared for a hearing on the motion on May 11, 2001. It was to be heard with Case No. 010366C (*Columbia County Assessor v. Costley*). Mr. Tom Linhares, the Columbia County Assessor, appeared for the plaintiff. Defendants failed to appear. However, Mr. Costley appeared and argued the cause for the related case and the issue involved is identical, including the critical timing of the mailing of the orders and service of the Complaints.

The appeal in this case was filed by the Columbia County Assessor from orders of the county board reducing the value of defendants' property. The board's orders were mailed February 26, 2001. The county appealed by sending a Complaint to the tax court and a copy to the defendants by regular mail, postmarked March 23, 2001. The county thereafter sent defendants another copy of the Complaint by certified mail on March 29, 2001. (Affidavit of Tom Linhares, filed April 9, 2001).

Defendants insist in their written motion that ORS 305.560(3) requires service of

the Complaint by certified mail within the 30-day appeal period provided in ORS 305.280(4). The court agrees. An appeal from a board order must be filed within 30 days of the date the order is mailed and when the appeal is by someone other than the taxpayer, a copy of the complaint must be served on the taxpayer by the plaintiff by certified mail within the 30-day deadline. ORS 305.275(4), 305.280(4) & 305.560(3). Plaintiff's argument of actual notice is not well taken. *Olympia Brewing Company v. Dept. of Revenue*, 284 Or 669, 673, n.2, 588 P2d 30 (1978). For a fuller explanation of the court's rationale, see *Columbia County Assessor v. Robert B. and Penelope Costley*, OTC-MD No. 010366C (May 2001).

IT IS THE DECISION OF THE COURT that the above-entitled matter be dismissed because plaintiff failed to serve a copy of the Complaint on the taxpayers within 30 days of the mailing of the board order as required by ORS 305.560(3).

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

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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 17, 2001. THE COURT FILED THIS DOCUMENT ON MAY 17, 2001.**