

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

GUY R. FRIEZE AND TERRI L. CALDWELL,	)	
	)	
Plaintiffs,	)	No. 010388E
	)	
v.	)	
	)	
MULTNOMAH COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION OF DISMISSAL</b>

This matter is before the court on defendant's Motion to Dismiss, which was filed as part of its Answer on April 5, 2001. The court discussed the motion with the parties during the case management conference held May 22, 2001. Terri L. Caldwell appeared on behalf of plaintiffs (taxpayers). Bob Schafer, Appraiser, appeared on behalf of defendant (the county.)

**STATEMENT OF FACTS**

The property at issue in this appeal is taxpayers' personal residence.<sup>1</sup> For the 2000-01 tax year, the county assigned the property a real market value of \$165,430. Although taxpayers thought this value seemed a little high, they did not file an appeal with the county Board of Property Tax Appeals (BOPTA). Sometime after January 1, 2001, taxpayers decided to refinance the property and, in conjunction with the refinancing, had the property appraised. The appraised value came in at \$153,000. Realizing the county may be overvaluing their home, taxpayers decided to appeal the 2000-01 tax year. Because they missed the deadline for filing an appeal with the BOPTA, taxpayers filed their appeal directly with this court.

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<sup>1</sup> The subject property is identified in the county's records as Account No. R262879.

## COURT'S ANALYSIS

The Oregon Legislature has developed an appeals system for taxpayers to follow when challenging the assessed and real market values assigned to their properties. The first step in the appeal process is to a county BOPTA. Taxpayers are required to file appeals with the appropriate county board by December 31 of the current tax year. ORS 309.100(2).<sup>2</sup>

The legislature recognized situations may exist that prevent a taxpayer from timely appealing to the county board. As a result, the legislature granted the court authority to review untimely appeals when the taxpayer either (1) establishes "good and sufficient cause" for not timely pursuing an appeal with the county board or (2) alleges an error equal to or greater than 20 percent. ORS 305.288(1), (3).

### Good and Sufficient Cause

ORS 305.288(3) states:

"The tax court may order a change or correction \* \* \* to the assessment or tax roll for the current tax year and for either of the two tax years immediately preceding the current tax year if, for the year to which the change or correction is applicable the \* \* \* taxpayer has no statutory right of appeal remaining and the tax court determines that **good and sufficient cause exists for the failure by the \* \* \* taxpayer to pursue the statutory right of appeal.**" (Emphasis added).

The statute defines good and sufficient cause as follows:

"'Good and sufficient cause':

"(A) Means an **extraordinary circumstance that is beyond the control of the taxpayer**, or the taxpayer's agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the statutory right of appeal; and

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<sup>2</sup> All references to the Oregon Revised Statutes are to 1999.

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“(B) Does 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) (emphasis added).

Ms. Caldwell explained that taxpayers have no significant reason for failing to timely file an appeal with the BOPTA. They suspected the property may be overvalued but chose not to file an appeal. Only after receiving the appraisal did taxpayers decide they should contest the value. Unfortunately, taxpayers’ situation is not so extraordinary as to constitute “good and sufficient cause” as defined and anticipated by the statute.

Gross Error

The legislature has also granted the court authority to consider untimely appeals when a taxpayer alleges a value error equal to or greater than 20 percent. See ORS 305.288(1). To allege an error of at least 20 percent, taxpayers would need to allege a value equal to or less than \$132,400. Taxpayers claim the value should only be reduced to \$153,000. With no error of 20 percent being alleged, the court finds it lacks authority to accept jurisdiction over this appeal. Now, therefore;

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

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

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COYREEN R. WEIDNER  
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 THIS DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON MAY 24, 2001. THE COURT FILED THIS DOCUMENT ON MAY 24, 2001.**