

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Small Claims  
Property Tax

JOAN CHERNO,	)	
	)	
Plaintiff,	)	No. 010643F
	)	
v.	)	
	)	
DESCHUTES COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION AND JUDGMENT OF STIPULATION</b>

Plaintiff appealed the real market value of property for the 2000-01 tax year. The property is listed as Account No. R151308DC01200 by the Deschutes County Assessor.

This matter is before the court upon the oral stipulation of the parties made at the case management conference on June 20, 2001. At the request of the plaintiff, the court agreed to convert the matter to small claims. Defendant voiced no objection.

Plaintiff is the daughter of the property owner, Nettie Ruby. Ms. Ruby lives in Colorado. At the case management conference, Ms. Chernob represented that she was authorized to act for her mother. After the hearing, Ms. Chernob submitted a power of attorney.<sup>1</sup> Jay Ruby also appeared at the hearing. He is Ms. Ruby's son and Ms. Chernob's brother. He is a CPA with a practice in California.<sup>2</sup> Mr. Ruby has a general power of attorney from his mother. Mr. Ruby had the general responsibility for conducting his mother's affairs. Due to Ms. Chernob's proximity to the subject property, she was responsible for the day-to-day management of the property. For example, if there were

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<sup>1</sup>The power of attorney was given by Ms. Ruby so Ms. Chernob could sell the subject property.

<sup>2</sup>Mr. Ruby noted that he has several clients in Oregon.

any documents that needed to be signed, she would make the necessary arrangements and then forward those documents to her brother for his signature. Tax statements and certain other correspondence relating to the property were sent to Ms. Ruby, in care of Mr. Ruby at his California address.

Since the contested tax year was not timely appealed, the court's authority to grant relief, if any, lies in ORS 305.288. Under ORS 305.288(3), the court may grant relief for the current tax year **when the court determines** good and sufficient cause exists for the failure of the taxpayer to timely pursue a right of appeal. A hearing on the issue of good and sufficient cause was held.

Ms. Chernov stated that her sister-in-law, Mr. Ruby's wife, suffers from a condition called scleroderma. This is a rare disease with no known cure. It causes a stiffening and thickening of body tissues and in her sister-in-law's case it has affected her internal body parts. Her sister-in-law's case is very severe; the disease has essentially turned her lungs to stone. Ms. Chernov's brother and sister-in-law visited at Thanksgiving. Ms. Chernov stated that her sister-in-law could not catch her breathe; nor could she walk. Ms. Chernov is moving to California to help care for her sister-in-law. Ms. Chernov's sister-in-law is currently in an intensive care unit. She has been there for several weeks. Mr. Ruby stated that unless his wife receives a lung transplant, she will die. The court finds, in the particular facts of this case, a sufficient demonstration of good and sufficient cause.

Because the parties are in agreement, the case is ready for judgment. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that the real market value of the property described as Account No. R 151308DC01200 was, as stipulated for the 2000-01 tax year, \$118,900.

IT IS FURTHER ADJUDGED AND DECREED that the county shall correct the assessment and tax rolls to reflect the above value. Any refund due following this correction shall be promptly paid with statutory interest pursuant to ORS 311.806 and 311.812.

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

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SCOT A. SIDERAS  
PRESIDING MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON JULY 20, 2001. THE COURT FILED THIS DOCUMENT ON JULY 20, 2001.**