

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

SCOTT PETERSON,)
)
 Plaintiff,) No. 010682D
)
 v.)
)
 LANE COUNTY ASSESSOR,)
)
 Defendant.) **DECISION AND JUDGMENT**

Plaintiff appeals defendant's Board of Property Tax Appeal (BOPTA), dated March 28, 2001, dismissing plaintiff's petition.

This matter is before the court on its own motion to dismiss the above-entitled matter. The court discussed its motion with plaintiff during the case management conference held on July 17, 2001. Mr. Scott Peterson appeared on his own behalf. Defendant did not appear.

STATEMENT OF FACTS

Plaintiff appeals the 2000-2001 real market value of his property which is a vacant lot. In his Complaint, plaintiff wrote that he purchased the property on August 31, 1998, for \$35,800. Plaintiff wrote that he successfully appealed the property value for the 1998-1999 and 1999-2000 tax years, resulting in a real market value and assessed value of \$35,800 for tax year 1998-1999 and \$36,870 for tax year 1999-2000. When he received his 2000-2001 property tax statement, the land value was increased to \$49,940 and the assessed value was \$47,388.

Plaintiff planned to appeal the value to the Board of Property Tax Appeals (BOPTA) as he had done the prior year. However, he was busy selling a home in Southern

California and by the time he filed the appeal, he was one day late. The due date of the BOPTA appeal was January 2, 2001. Mr. Peterson filed his appeal in person on January 3, 2001. Because he was late in filing his appeal, BOPTA dismissed his petition. Mr. Peterson followed the instructions on the BOPTA Order and appealed to the court on April 25, 2001.

COURT'S ANALYSIS

The Oregon Legislature developed a system for taxpayers to challenge the real market value and assessed value of their properties. First, taxpayers are required to file appeals with the appropriate county board of property tax appeals, usually by December 31 of the current tax year, unless that date falls on a weekend. ORS 309.100(2).¹ In this case, plaintiff's appeal was due January 2, 2001, the first working day after December 31.

The legislature recognized that situations may exist which prevent a taxpayer from timely appealing to the county board. As a result, the legislature granted the court authority to hear property tax appeals when a taxpayer has failed to appeal to BOPTA, but only when one of two circumstances is met. The first is when the taxpayer can establish "good and sufficient cause" for not timely pursuing his appeal with BOPTA. ORS 305.288(3). The second is when the taxpayer alleges an error of equal to or greater than 20 percent for property which is used primarily as a dwelling and "was and is a single-family dwelling" or other type of dwelling. ORS 305.288(1)(a). In this case, ORS 305.288(1) is not applicable because the property is a vacant lot.

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Good and Sufficient Cause

¹All references to the Oregon Revised Statutes are to 1999.
DECISION AND JUDGMENT

ORS 305.288(3) states:

“The tax court may order a change or correction applicable to a separate assessment of property 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 assessor or taxpayer has no statutory right of appeal remaining and the tax court determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal.”

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

“(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).

Mr. Peterson explained that he was very busy traveling from Portland to Southern California in an effort to sell a home. In addition, he stated that he thought the filing date was January 15th, “when other tax payments are due.” When he realized the filing due date was January 2, 2001, Mr. Peterson hand delivered his appeal but it was one day late. Unfortunately, Mr. Peterson’s situation does not meet the statutory definition of good and sufficient cause. The court concludes that it lacks authority to accept jurisdiction over plaintiff’s appeal because plaintiff did not have good and sufficient cause for failing to timely appeal to BOPTA.

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CONCLUSION

Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that plaintiff's appeal is dismissed.

Dated this _____ day of July, 2001

JILL A. TANNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON JULY 24, 2001. THE COURT FILED THIS DOCUMENT ON JULY 24, 2001.