

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

LARRY RICE,)	
)	
Plaintiff,)	No. 010854D
)	
v.)	
)	
YAMHILL COUNTY ASSESSOR)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

Plaintiff appeals the real market value of his property described as Yamhill County Assessor's Account Nos. 48585 and 48629.

A case management conference was held in the above-entitled matter on August 3, 2001. Mr. Larry Rice appeared on his own behalf. Ms. Jeanie Sandall, Appraiser, appeared on behalf of defendant.

During the conference, the parties discussed the Oregon property tax system which was changed for tax years beginning July 1, 1997. Plaintiff alleged that the real market value of the property, which is two vacant lots, was substantially less than the roll value which was \$31,957 and \$36,617 for tax year 1999-2000 and \$35,792 and \$41,011 for tax year 2000-2001. Plaintiff stated that he purchased the property in 1998 for \$5,000. Plaintiff appealed because he believes that the real market value of the property was overstated and requested that the tax roll be changed for the current tax year 2000-2001 and the prior tax year, 1999-2000. It was explained to Mr. Rice that the assessed value for tax year 2000-2001 was \$9,759 and \$14,149, which was the amount used to compute plaintiff's property taxes. The assessed value of the property for tax year 1999-2000 was

\$9,457 and \$13,737.

For tax years 1999-2000 and 2000-2001, Mr. Rice did not appeal to the Board of Property Tax Appeals (BOPTA). When a taxpayer fails to appeal to BOPTA and appeals directly to the tax court, the court's authority to grant relief is limited by certain additional hurdles (ORS 305.288) imposed on the taxpayer by the legislature. The taxpayer must either allege a substantial error in the real market value of residential property (at least 20 percent) or provide a good reason (good and sufficient cause) for failing to petition BOPTA before appealing to the tax court. In this case, the property is not residential property; it is two vacant lots. The substantial error exception does not apply.

During the case management conference, Mr. Rice stated that he had not filed an appeal with BOPTA because he thought he would be able to build on the property after the county took a portion for its easement. However, now, Mr. Rice has been unable to secure construction financing and he is unsure if the city will grant building permits. At the time plaintiff could have appealed, these circumstances did not exist. Plaintiff could have filed an appeal with BOPTA. The court cannot find good and sufficient cause for his failure to file a timely appeal with BOPTA.

Since plaintiff does not meet the statutory requirements of ORS 305.288, the court has no jurisdiction and must dismiss plaintiff's appeal. The court advised the parties that it would dismiss the appeal. Now, therefore;

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

Dated this _____ day of August, 2001.

JILL A. TANNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON AUGUST 13, 2001. THE COURT FILED THIS DOCUMENT ON AUGUST 13, 2001.