

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

ROBERT DUANE MOSER and)	
RAYMAH J. MOSER,)	
)	
Plaintiffs,)	No. 011188A
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-referenced appeal because Plaintiffs improperly elected the court’s small claims procedure. The appeal involves a clerical error correction made by Defendant pursuant to ORS 311.205.¹

The general procedures for filing a Complaint in the Tax Court are set out in ORS 305.560. Appeals are initially heard by a Tax Court magistrate. ORS 305.501(1). The fee for a Complaint in the magistrate division is \$25. ORS 305.490(1)(b). A taxpayer has the option to elect a small claims procedure. ORS 305.514. The filing fee for small claims is only \$10. ORS 305.490(1)(a). However, the determination of the magistrate cannot be appealed. ORS 305.514(2). Not all cases qualify for small claims election. In property tax cases, the relevant portions of the statute read as follows:

“(1) A plaintiff may elect to file a small claims procedure in the following classes of cases:

“ * * * * *

“(b) A proceeding by a taxpayer in any property tax case in which a taxpayer has the right to appeal and that involves only the question of the assessed or specially assessed value of real or personal property, where a board of property tax appeals (by order of the board), an assessor or a

¹All references to the Oregon Revised Statutes are to 1999.
DECISION OF DISMISSAL CASE NO. 011188A

tax collector has determined that the assessed or specially assessed value of:

“(A) A parcel of land is not in excess of \$250,000;

“(B) The improvement on a parcel of land is not in excess of \$250,000;

“(C) Both a parcel of land and the improvement are not in excess of \$250,000; or

“(D) Personal property is not in excess of \$250,000.”

ORS 305.514.

This case involves a clerical error assessment that increased the maximum assessed value of the subject property. The assessment goes back several years. Such assessments are made under the provisions of ORS 311.205. Plaintiffs’ appeal does not involve “only the question of the assessed or specially assessed value of real or personal property,” as provided in ORS 305.514(1)(b). In fact, value is not the issue here. Rather, Plaintiffs challenge the legality or fairness of the county’s act of adding omitted property value to the maximum assessed value. As such, it does not qualify for small claims procedure. ORS 305.514(1)(b).

Plaintiffs were given an opportunity to convert the case to a standard appeal and pay the additional filing fee. By letter dated January 31, 2002, the court notified Plaintiffs of the invalid election and requested they submit the additional \$15 filing fee (and revoke the small claims election). Plaintiffs were given until February 20, 2002, to respond. To date no response has been submitted by Plaintiffs. Now, therefore,

///

///

IT IS THE DECISION OF THE COURT that Plaintiffs’ Complaint is dismissed.

Dated this _____ day of March, 2002.

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 MARCH 6, 2002. THE COURT FILED THIS DOCUMENT ON MARCH 6, 2002.