

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

PATTI A. COOPER,)	
)	
Plaintiff,)	No. 020032E
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on Defendant's Motion to Dismiss, which was filed as part of its Answer on February 6, 2002. Defendant claims the court should dismiss the appeal because Plaintiff failed to timely present her appeal to the county board of property tax appeals (BOPTA). The court discussed Defendant's motion with the parties during the case management conference held March 12, 2002. Patti A. Cooper appeared on her own behalf. Steve Blixt, Appraiser, appeared on behalf of Defendant. For ease of reference herein, the parties are referred to as "taxpayer" and "the county."

STATEMENT OF FACTS

Taxpayer purchased the subject property in the fall of 2001 for \$195,000.¹ At closing, she discovered the county had assigned the property a real market value of \$222,560 for the 2001-02 tax year. Discussions with people at her work led Plaintiff to believe she had until April to contest the assigned value. After the first of the year, taxpayer called the county to inquire about contesting the value. It was at this time she discovered she had missed the appeal deadline to the board. The county advised her to file her appeal with this court instead.

During the case management conference, Mr. Blixt stated that, after reviewing

¹ The subject property is identified in Defendant's records as Account No. R135079.

taxpayer's appraisal, the county agreed the real market value should be reduced to \$195,000 and was willing to stipulate to this value. Although the parties agree a value reduction is warranted, the court must determine whether it has authority to grant the relief under ORS 305.288² because taxpayer failed to exhaust her administrative remedy. *See Seifert v. Dept. of Rev.*, 14 OTR 401 (1998).

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).

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:

² All references to the Oregon Revised Statutes are to 2001.

“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) (emphasis added).

Taxpayer had knowledge of the county’s value prior to the December 31, 2001, appeal deadline. She did not file her appeal by this date because discussions with people at her work caused her to believe she had until April to file an appeal. Taxpayer realizes now she should not have relied on their advice but, instead, should have contacted the county to find out how and when she should contest the property’s value. In any case, the court finds that reliance on coworkers’ incorrect advice does not constitute “good and sufficient cause” for failing to timely file an appeal with the BOPTA.

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). The county assigned the property a real market value of \$222,560 and taxpayer alleges the value should be reduced to \$195,000. This represents an alleged error of approximately 14 percent. With no error of 20 percent being alleged, the court finds it lacks authority to accept jurisdiction over this appeal.³ Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that this matter be dismissed.

Dated this ____ day of March, 2002.

³ As discussed at the conference, because the county agrees the real market value of the property should be reduced to \$195,000 for the 2001-02 tax year, the parties may consider entering into a Stipulated Agreement and filing the agreement with the Department of Revenue for review under its supervisory power.

COYREEN R. WEIDNER
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON
MARCH 21, 2002. THE COURT FILED THIS DOCUMENT ON MARCH 21, 2002.**