

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

STEVE BLACK,	)	
	)	
Plaintiff,	)	No. 020035B
	)	
v.	)	
	)	
JACKSON COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

This matter is before the court on Defendant's Motion to Dismiss, made during a case management conference on March 14, 2002, requesting that the Complaint be dismissed because appeals were not first presented to the Jackson County Board of Property Tax Appeals.

This appeal concerns the real market value of certain commercial real property. The Complaint seeks relief for tax years 1998-99 through 2000-01.

The property is identified in the Jackson County tax records as Account No. 1-083108-1. No petitions were earlier and timely submitted to the county board for any of these years. The first, and only, Complaint for those earlier years was filed with the Magistrate Division on January 19, 2002.

To appeal such value issues, taxpayers typically must appeal to their county board of property tax appeals by December 31 of the current tax year. ORS 309.100<sup>1</sup>. Here, Plaintiff admits he did not timely appeal in these earlier years.

The legislature has provided a limited opportunity to contest certain earlier year assessments. In non-residential cases, the court can grant taxpayers relief in but a single circumstance. That exception is when a taxpayer can clearly establish good and

---

<sup>1</sup>All references to the Oregon Revised Statutes are to 1999.

sufficient cause as to why it did not timely appeal.

### **GOOD AND SUFFICIENT CAUSE**

The court may consider Plaintiff's appeal for the current tax year and the two prior years, if there is substantive evidence of good and sufficient cause for failing to earlier timely appeal. ORS 305.288(3) provides:

"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.)

ORS 305.288(5)(b) defines what constitutes good and sufficient cause: "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."

Here, Plaintiff did not timely appeal because he was unaware of any value discrepancy until he obtained an independent appraisal in October, 2001. This is not beyond the owner's control; an earlier investigation could have been made.

Under these particular facts, the court finds that Plaintiff does not have good and sufficient cause for failing to timely appeal.

///

///

### **CONCLUSION**

After considering Defendant's request, the court concludes that the motion should be granted for the years under appeal. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is granted.

Dated this \_\_\_\_ day of March, 2002.

---

JEFF MATTSON  
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 97310. 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 JEFF MATTSON ON MARCH 21, 2002. THE COURT FILED THIS DOCUMENT ON MARCH 21, 2002.**