

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

EAGLE NEWSPAPERS, INC.,)
)
 Plaintiff,) No. 020052B
)
 v.)
)
 WASCO COUNTY ASSESSOR,)
)
 Defendant.) **DECISION AND JUDGMENT**

This matter is before the court on Defendant's Motion to Dismiss, made during a case management conference on March 12, 2002, requesting that the Complaint be dismissed because appeals were not first presented to the Wasco County Board of Property Tax Appeals.

This appeal concerns the real market value of certain machinery and equipment used in Plaintiff's commercial enterprise. The Complaint seeks relief for tax years 1997-98 through 2001-02.

The property is identified in the Wasco County tax records as Account No. 3705. No petitions were earlier 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 February 4, 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 309.100.¹ Here, Plaintiff admits it 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

¹All references to the Oregon Revised Statutes are to 2001.

single circumstance. That exception is when a taxpayer can clearly establish good and 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 its employees were not aware of the assessment magnitude and exact asset inventory until a later date. 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.

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CONCLUSION

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

IT IS HEREBY ADJUDGED AND DECREED that Defendant's Motion to Dismiss is granted.

Dated this ____ day of March, 2002.

JEFF MATTSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON MARCH 21, 2002. THE COURT FILED THIS DOCUMENT ON MARCH 21, 2002.