

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DANA SCHNELL,)
)
 Plaintiff,) No. 020058B
)
 v.)
)
 LANE COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

This matter is before the court on Defendant's Motion to Dismiss, made in its Answer filed on February 26, 2002. This appeal concerns Plaintiff's commercial property and its assessed value for two earlier years: 2000-01 and 2001-02. The 1999-00 year was mentioned in the Complaint; Plaintiff withdrew that year from consideration during the case management conference.

That telephone conference was convened on April 2, 2002. Dana Schnell appeared on her own behalf; Bill Weeks represented the Defendant.

The property is identified in the Lane County tax records as Account No. 1646155. No petitions were earlier timely submitted to the Lane County Board of Property Tax Appeals. The first, and only, Complaint was filed with the Magistrate Division on January 31, 2002.

To appeal assessed values, a taxpayer typically must appeal to her county board of property tax appeals by December 31 of the current tax year. ORS 309.100¹. Here, Plaintiff admits she did not timely appeal in those earlier years.

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The legislature has provided a single limited opportunity to contest certain earlier

¹All references to the Oregon Revised Statutes are to 1999.

year assessments. In commercial property cases, that sole exception is when the court determines there is "good and sufficient cause" for failing to earlier appeal.

GOOD AND SUFFICIENT CAUSE

The court will consider Plaintiff's appeal for 2000-01 and 2001-02 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 states she did not timely appeal because she was not aware of the assessment magnitude and the appeals process until a later date. This is not beyond Plaintiff'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. Now, therefore,

IT IS THE DECISION OF THIS COURT that the appeal must be dismissed.

Dated this ____ day of April, 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 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 JEFF MATTSON ON APRIL 24, 2002. THE COURT FILED THIS DOCUMENT ON APRIL 24, 2002.