

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Property Tax

DAVID L. WILSON,	)	
	)	
Plaintiff,	)	No. 020182E
	)	
v.	)	
	)	
MULTNOMAH COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION AND JUDGMENT OF DISMISSAL</b>

This matter is before the court on its own motion to determine whether it has authority to review the merits of the case under ORS 305.288.<sup>1</sup> The court discussed its motion with the parties during the case management conference held May 21, 2002. David L. Wilson appeared on his own behalf. Chris Johnson, Appraiser, appeared on behalf of Defendant.

**STATEMENT OF FACTS**

Mr. Wilson owns a small construction company in Multnomah County. Several months ago, he changed accountants. His new accountant advised him the prior accountant had reported property that the company no longer owned on the company's personal property tax returns. There was also a concern that the company had listed property that is licensed as being taxable property. When Mr. Wilson received the 2001-02 tax statement in November 2001, he returned the statement to Defendant with a note explaining he was not going to pay the tax because he did not own all the taxed property. Mr. Wilson recalls talking with someone at the assessor's office and being advised to appeal, although he was never given specifics about how and where to appeal. Eventually, in the early spring, taxpayer talked to the county again and was

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<sup>1</sup>All references to the Oregon Revised Statutes are to 2001.

advised to appeal to this court. Because Mr. Wilson did not first appeal the property's value to the Multnomah County Board of Property Tax Appeals (BOPTA), the court must determine whether it has authority to consider the merits of the appeal under ORS 305.288. See *Seifert v. Dept. of Rev.*, 14 OTR 401 (1998).

### COURT'S ANALYSIS

The Oregon Legislature has developed a system for taxpayers to challenge 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 BOPTA 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. As a result, the legislature made an exception to the general appeal requirements. In commercial cases, the court can accept jurisdiction of an untimely appeal if the taxpayer can establish "good and sufficient cause" for not timely pursuing his statutory remedy. ORS 305.288(3).

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:

"(5)(b) '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).

Mr. Wilson did not appeal to the BOPTA because he was not aware he needed to appeal to it. Instead, he thought he could remedy the matter by sending the note to the county. The tax statement, however, advises taxpayers that they must appeal to the BOPTA if they disagree with the assigned values. Mr. Wilson’s lack of knowledge is not a sufficient reason for failing to timely pursue his statutory remedy. As a consequence, the court finds it lacks authority to review the merits of his claim. Now, therefore,

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

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

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COYREEN R. WEIDNER  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON JUNE 19, 2002. THE COURT FILED THIS DOCUMENT ON JUNE 19, 2002.**