

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

KENT R. REGAN, )  
 )  
 Plaintiff, ) No. 020202D  
 )  
 v. )  
 )  
 CLACKAMAS COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

This matter is before the court on the oral agreement of the parties.

The first case management conference was held Thursday, May 16, 2002. A second case management conference was held Friday, June 21, 2002.

Mr. Kent Regan appeared on his own behalf at both conferences. Mr. Jim Rubbelke, Appraisal Supervisor, appeared on behalf of Defendant at both conferences.

During the first case management conference held May 16, 2002, the court briefly reviewed the statutory requirement that only the current year and two prior years can be appealed. See ORS 305.288. Mr. Regan did not appeal to the board of property tax appeals (BOPTA). When a taxpayer fails to appeal to BOPTA and appeals directly to the Tax Court, the court's authority to grant relief is limited by certain additional hurdles (ORS 305.288) imposed on the taxpayer by the legislature. The taxpayer must either allege a substantial error in the real market value of residential property (at least 20 percent) or provide a good reason (good and sufficient cause) for failing to petition BOPTA before appealing to the Tax Court.

In this case, the property is residential property and Mr. Regan is requesting that the court reduce the real market value from \$200,670 to \$175,000. The requested

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value does not meet the substantial error requirement. However, Mr. Regan's situation

does satisfy the good and sufficient cause requirement.

On June 7, 2002, Mr. Rubbelke notified the court that Mr. Regan did not receive his property tax statement in time to appeal to BOPTA. Mr. Rubbelke stated that "Clackamas County erred by not changing the mailing address on tax lot 7201 [the property that is the subject of Plaintiff's appeal] when the Bargain and Sale Deed was recorded." (Def's Letter dated June 5, 2002.) Mr. Regan's failure to appeal to BOPTA was beyond his control. The court concludes that Mr. Regan had good and sufficient cause for failing to pursue his statutory right of appeal. Because Mr. Regan has no other statutory right of appeal, the court can take jurisdiction over Mr. Regan's appeal.

During the second case management conference, the parties orally informed the court that they had reached an agreement. The parties agree that the real market value of the subject property for the tax year 2001-02 was \$175,000. Mr. Rubbelke informed the court that if the real market value of Mr. Regan's property was changed to \$175,000, Mr. Regan would be entitled to a property tax refund. Because the parties are in agreement and Mr. Regan is aggrieved, the court advised the parties that it would prepare a decision. Now, therefore,

IT IS THE DECISION OF THIS COURT that the real market value of Plaintiff's property identified as Clackamas County Assessor Account No. 00577414 (Lot 7201) was \$175,000 for the tax year 2001-02.

IT IS FURTHER DECIDED that the county correct the assessment and tax rolls

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to reflect the above values. Any refund due following this correction is to be promptly

paid with statutory interest pursuant to ORS 311.806 and ORS 311.812.

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

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JILL A. TANNER  
PRESIDING 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 JILL A. TANNER ON JULY 9, 2002 . THE COURT FILED THIS DOCUMENT ON JULY 9, 2002.**