

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

B. ANN HARPER,)	
)	
Plaintiff,)	No. 020305D
)	
v.)	
)	
LINCOLN COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss this case for want of prosecution.

A trial was scheduled to begin at 9:00 a.m. on September 24, 2002, to consider Plaintiff's appeal. The court sent a notice of scheduled trial to Plaintiff dated July 16, 2002. The notice was sent to Plaintiff at 21 Carter Street, Toledo, Oregon, 97391-9520, which is the address Plaintiff provided to the court. The notice was not returned as undeliverable. At the date and time set for the trial, Defendant was available, but Plaintiff failed to appear.

This trial date was set after discussion with parties on July 16, 2002, which was the original date set for trial. During the telephone conversation, the court reviewed with Plaintiff why it could not consider all the tax years listed on her Complaint. It explained that some of the tax accounts listed in the appeal were "land only." When "land only" accounts are not appealed to the board of property tax appeals as required by law, the court has no jurisdiction to hear these types of appeals. Generally, for tax years prior to 1999, regardless of the type of tax account, the court does not have

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jurisdiction to hear property tax appeals. In this case, the court would have not

jurisdiction for years prior to 1999.

In addition, the court reviewed the information submitted on behalf of Plaintiff by Ms. Marlyn Weaver, Broker, Willamette West Real Estate. Ms. Weaver stated that she did not know "the market value" of Plaintiff's property; however, she wrote that it was her belief that "it is substantially less than our previous list price and the county's Real Market Value." (Ptf's Ex F.) The court explained that Plaintiff's evidence must support her requested real market value.

At the conclusion of the telephone conversation, Plaintiff agreed to contact Ms. Weaver and others and ask them to provide the court with evidence that the real market value of her property for tax years 1999-2000, 2000-2001 and 2001-02 was no more than the value (\$100,000) Plaintiff stated on her Complaint. The court reviewed with Plaintiff that her property was assessed at \$127,350 for tax year 2001-02. To date, Plaintiff has not submitted any additional information.

Also during the conversation, Plaintiff agreed to the trial date, September 24, 2002. She did not appear and has not submitted an explanation as to why she did not appear. She did not request that the trial be reset.

A case may be dismissed when the participant seeking relief fails to appear. For purposes of a telephone proceeding, a participant "appears" by being available at the telephone number provided to the court by that participant at the designated time and date. Because Plaintiff failed to appear for the scheduled proceeding and did not

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submit any additional evidence showing her intent to pursue her appeal, the court finds the case should be dismissed. Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that the Complaint is dismissed.

Dated this _____ day of October, 2002.

JILL A. TANNER
PRESIDING MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON OCTOBER 29, 2002. THE COURT FILED THIS DOCUMENT ON OCTOBER 29, 2002.