

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JEFFREY R. KENNEDY and ROBLI KENNEDY,)	
)	
Plaintiffs,)	No. 020619C
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant's motion to dismiss, contained in its Answer filed May 7, 2002, requesting that the Complaint be dismissed for lack of jurisdiction. Plaintiffs have requested a reduction in interest and penalties regarding taxes on personal property for the 1997-98 and 1998-99 tax years.

The motion was discussed with the parties during the August 26, 2002, case management conference, at which Robli Kennedy appeared for Plaintiffs and Patrice Kilmartin appeared for Defendant.

Defendant argues Plaintiffs did not petition the county board of equalization¹ in either 1997 or 1998. Plaintiffs acknowledge that deficiency.

The court is granting the motion to dismiss because penalty waiver requests for the tax years at issue could be considered only by the board of property tax appeals by timely petition. ORS 308.295(4).² Moreover, under the 1997 law there was no appeal from the board's determination. The applicable statute reads:

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¹ The board at one time was called the board of equalization. It had been changed to board of property tax appeals by 1997.

² All references to the Oregon Revised Statutes are to 1997.

“(4) The county board of property tax appeals may, upon application of the taxpayer, excuse the liability for the penalty upon a proper showing that by reason of good and sufficient cause, the requirement to file pursuant to ORS 308.290 could not be complied with. However, an application made under this subsection shall not be considered by the board unless filed timely and in the same manner as an appeal under ORS 309.100. There shall be no appeal from the determination of the board under this subsection.”
ORS 308.295.

An appeal under ORS 309.100 must be filed “during the period following the date the tax statements are mailed for the current tax year and ending December 31.” ORS 309.100(1).

Plaintiffs did not petition the board in either 1997 or 1998. Had they done so, the board’s decision would have been final. The court therefore lacks jurisdiction to consider the penalty waiver request raised in the Complaint.

Plaintiffs also seek a reduction in the interest charges imposed by the county. The court lacks jurisdiction over that issue. See ORS 305.560 and *Pelett v. Dept. of Rev.*, 11 OTR 364 (1990).

Having reviewed Plaintiffs’ requested relief under the applicable law for the tax years at issue, the court concludes Defendant’s motion to dismiss for lack of jurisdiction must be granted. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this _____ day of August, 2002.

DAN ROBINSON
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 DAN ROBINSON ON AUGUST 29, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 29, 2002.