

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Property Tax

JAMES JAUSSEI and JOANN JAUSSEI, )  
 )  
 Plaintiffs, ) No. 020787A  
 )  
 v. )  
 )  
 WASHINGTON COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION AND JUDGMENT**

James and Joanne Jaussi have appealed, for the 2001-02 tax year, the assessment of their home, a residence identified by Account No. R2067184. Mr. Jaussi appeared and made their arguments. Washington County was represented by Tony Rosatti, of its staff.

**STATEMENT OF FACTS**

The Jaussis did not first appeal to the board of property tax appeals, and then come to the Tax Court as an appeal from the order of the board. Instead, the Jaussis appealed directly to the Tax Court on May 1, 2002. The Jaussis explained that they were unaware of their ability to appeal and the importance of acting in a timely manner. The Jaussis had newly arrived in Oregon. This is their first home.

The residence is on the roll at a real market value of \$187,240. The Jaussis and Washington County agree that \$177,450 is a more accurate estimate of the home's value. This difference is on the order of 5 percent.

**COURT'S ANALYSIS**

Washington County and the Jaussis agree that the roll is in error. This consensus runs to the appropriate amount of the correction. Despite these facts, the Tax Court cannot order the roll to be changed.

The controlling statute is ORS 305.288,<sup>1</sup> which provides in part:

"(b) The change or correction requested is a change in value for the property for the tax year and it is asserted in the request and determined by the tax court that the difference between the real market value of the property for the tax year and the real market value on the assessment and tax roll for the tax year *is equal to or greater than 20 percent*.

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"(3) The tax court may order a change or correction applicable to a separate assessment of property 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 assessor or taxpayer has no statutory right of appeal remaining and the tax court determines that *good and sufficient cause* exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal.

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"(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."(Emphasis added.)

No avenue to effect the correction urged by both the Jaussis and Washington County exists in ORS 305.288. The correction sought is less than 20 percent. The explanation of the Jaussis for failing to exercise their appeal rights to the board of property tax appeals does not fit the criteria for good and sufficient cause. A previous decision of the Regular Division, *Seifert v. Dept. of Rev.*, 14 OTR 401 (1998) found that under such circumstances the Magistrate Division had no authority to order a change in the roll. This is not to say that the Jaussis have no alternatives at this point. The Oregon Department of Revenue has its own power to change the roll, set out in ORS 306.115. As a courtesy to the parties a copy of that statute, and its accompanying

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

administrative rule, is attached. As a suggestion to the Jaussis the court notes that the administrative rule, at OAR 150-306.115(3)(b)(A)(ii), specifically permits the Department of Revenue to order corrections when the taxpayer and the assessing authority agree that the roll is in error. As an additional courtesy to the Jaussis the court has also included the necessary forms and instructions to appeal to the Oregon Department of Revenue with this Decision and Judgment.

### **CONCLUSION**

Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that the appeal is denied.

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

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SCOT A. SIDERAS  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON  
OCTOBER 4, 2002. THE COURT FILED THIS DOCUMENT ON OCTOBER 4, 2002.**