

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

WILLIAM LEIGH,)
)
 Plaintiff,) TC-MD 020923F
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

This matter came before the court on Defendant's motion to dismiss, filed with its Answer on June 20, 2002, requesting that the Complaint be dismissed. The court held hearings on August 19, 2002, and October 7, 2002. William Leigh appeared for himself. John Thomas, Assistant County Counsel, represented Defendant. Pat Frahler, Tax Collection Administrator, also appeared for Defendant. This appeal concerns the interest imposed upon Plaintiff's property by Defendant for tax years 2000-2001 and 2001-02.

STATEMENT OF FACTS

Plaintiff purchased the subject property in June 1999. Consequently, on June 30, 1999, Plaintiff's title company caused a warranty deed to be recorded that conveyed title to Plaintiff. Pursuant to the requirements of ORS 93.260,¹ the warranty deed² directed that:

"Until a change is requested, all tax statements shall be sent to the following address:

"William Leigh
P.O. Box 12208
Portland, OR 97019"

¹ Unless otherwise noted, all references to the Oregon Revised Statutes (ORS) are to 1997.

² Defendant quoted from the warranty deed without contradiction by Plaintiff.

That is the address that was noted on the tax roll. Plaintiff's correct address is: P.O. Box 12208; Portland, OR **97212**. A few months later, Plaintiff refinanced the subject property. On February 29, 2000, a deed of trust was recorded at the request of Albina Community Bank. The deed of trust asked that tax notices be sent to Plaintiff at P.O. Box 12208; Portland, OR 97212. For tax years 1999-2000 through 2001-02 tax statements were sent to the address on the warranty deed. The property taxes for tax year 1999-2000 were paid on March 2, 2000.

Plaintiff realized in late 2001 that he had not paid the property taxes on the subject property for tax years 2000-2001 and 2001-02. On May 15, 2002, he mailed a check in the amount of \$7,322.83 to the Multnomah County Tax Collector. He intended to pay the entire amount of taxes due, excluding accrued interest. Plaintiff asks that the accrued interest be waived.

COURT'S ANALYSIS

Plaintiff argues that the deed of trust was notice to Defendant of his correct address. Because Defendant did not correct his address when the deed of trust was recorded, he argues that he was damaged to the extent that interest accrued on the unpaid taxes. The court disagrees.

Pursuant to ORS 311.555, "[e]ach person * * * owning real or personal property within the state * * * shall keep the tax collector of the county where such real or personal property is situate informed of the true and correct address of the person[.]" In the present case, Plaintiff, acting through his agent the title company, informed Defendant of an incorrect address. When Plaintiff refinanced the property, Albina Community Bank, acting on its own behalf, caused the deed of trust to be recorded with the correct address. As

pointed out by Defendant, the legislature only requires documents that convey title include the following language: "[u]ntil a change is requested, all tax statements shall be sent to the following address * * *." ORS 93.260(1).

A document conveying title will be recorded at the request of the new property owner. In other words, including the address of where to send tax statements on documents that convey title satisfies the requirements of ORS 311.555. A tax collector ignoring the address on a document conveying title does so at their peril. Further, a document conveying title constructively announces to the world the ownership of the property. See ORS 93.643. It is in the interest of the property owner to record such a document. On the other hand, recorded documents that do not convey title, such as easements or deeds of trusts prepared as a result of refinancing are not protecting the interests of the property owner, they protect others' interests. A recorded easement protects the holder of the easement, just as the deed of trust recorded on February 29, 2000, in the present dispute, protects the interests of Albina Community Bank. Defendant is under no obligation to rely on deeds of trust or any other document that does not convey title to obtain the correct address of property owners. Indeed, if the situation had been reversed and the warranty deed contained the correct address and the deed of trust the incorrect address, Defendant would have been in error to rely on the deed of trust.

Finally, the court notes that the property taxes for tax year 1999-2000 were paid on March 2, 2000, apparently as a result of Plaintiff refinancing his property. A careful review of the refinancing documents should have alerted Plaintiff that the 1999-2000 property taxes had not yet been paid and lead to an inquiry as to why he had not received the tax statement for that year.

CONCLUSION

The court sees no reason that Plaintiff should not be responsible for his agent's error. At no time did Plaintiff, either himself or through an agent, inform Defendant of his correct address. Defendant acted properly in not changing the tax roll to reflect the address noted in the refinancing deed of trust. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's motion to dismiss is denied

IT IS FURTHER DECIDED that Plaintiff's appeal is denied.

Dated this _____ day of March, 2003.

SALLY L. KIMSEY
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 SALLY L. KIMSEY ON MARCH 19, 2003. THE COURT FILED THIS DOCUMENT ON MARCH 19, 2003.