

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

EDWIN A. OLSEN and NANCY A. OLSEN,)
)
Plaintiffs,) No. 021087A
)
v.)
)
DESCHUTES COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

The Olsens have appealed the assessment of \$578.72 in interest on taxes paid for the 2001-02 tax year on property identified by Account No. 021087A. Mr. Olsen appeared and made his arguments. Deschutes County was represented by David Lilley.

STATEMENT OF FACTS

In 1998 the Olsens, living in Portland, purchased an unimproved lot at 61451 Tam McArthur Loop in Bend. The deed directed that tax statements were to be sent to the Olsens at their Portland address. The tax statements were sent to that address. The Olsens paid the taxes.

In March of 1999 the Olsens sold their Portland home and rented a house at 60825 Willow Creek Loop in Bend. On May 13, 1999, Mr. Olsen put the assessor on notice of their new address by completing and filing a Deschutes County Assessor Change Of Address form. Deschutes County subsequently sent its tax statements to that address. As the tax statements were sent Mr. Olsen would visit the tax collector to pay the taxes in person.

The Olsens new home at 61451 Tam McArthur Loop was subsequently completed, and the Olsens moved in. Mail addressed to the Olsens at 60825 Willow Creek Loop was forwarded to their new address. Timely property tax installment

payments were made through May 15, 2001. However, when the request to forward mail expired, and the U.S. Postal Service returned mail addressed to the Olsens at Willow Creek Loop to the senders, the Olsens stopped paying property taxes. Tax statements sent to the Olsens were returned to Deschutes County on October 22, 2001, January 22, 2002, April 22, 2002, and May 23, 2002. These tax statements showed a total real market value for the residence of \$592,455, and total taxes due of \$7,233.94. In July of 2002 a Deschutes County employee subsequently found the new address of the Olsens in the telephone directory and mailed the tax statements again. Taxes were paid on July 30, 2002, and on that same date the Olsens filed a "Deschutes County Tax Office Property Tax - Change Of Address Form" for Tam McArthur Loop.

Mr. Olsen is adamant that, when he received the forwarded tax statements on November 1, 2000, and February 10, 2001, he personally visited the tax collector, and as he paid his installment, asked that their address be changed to Tam McArthur Loop. The November 1st check had the Willow Creek Loop address. The February 10th check bore the Tam McArthur Loop address. Mr. Olsen unequivocally testified that he was assured that it would be attended to. Mr. Olsen is also certain that no mention was made that he would be required to complete a change of address form.

For its part Deschutes County is equally certain that its policy during the time at issue, as it has been for the previous quarter-century, is to require requests for address changes to be in writing, and signed by the property owner.

COURT'S ANALYSIS

The Olsens have presented two arguments in support of their conclusion that interest should be waived. First, they reason that Deschutes County ought to have responded to Mr. Olson's requests, by either changing the address upon his oral

request or directing him to file a change of address form. Next, they conclude that Deschutes County should have deduced that the Olsens had moved, and found them sooner. These arguments are overborne by statutes and precedent.

The Oregon Supreme Court has for a long time been of the opinion that "every citizen 'is presumed to have known that his land was taxable, that in due course it would be assessed, a tax levy extended against it, and * * * that it was his duty to timely pay his taxes'". *Hood River County v. Dabney*, 246 Or 14, 28, 423 P2d 954 (1967). This is especially true in Mr. Olsen's case. Since he moved to Bend he was in the habit of personally visiting the tax collector and paying the taxes due. In November of 2001, when no tax statement was delivered to his door, Mr. Olsen had a duty to inquire of the county as to the taxes due. The failure of the county to deliver a tax statement to him does not relieve him of the responsibility to make a timely payment. See ORS 311.250(2)¹ and *Gordon v. Dept. of Rev.*, 12 OTR 288 (1992).

The choice of placing primary responsibility on the taxpayer, rather than the county, to see that taxes are paid is also found in the statutes. The court is of the opinion that a focus on what happened at the counter in the exchanges between Mr. Olsen and the county employees is, under the facts of this case, misplaced, for by the time they occurred the Olsens had already lapsed in their responsibilities under ORS 308.212. That statute reads as follows:

“(1) Any person who owns real property located in any county shall notify the county assessor for the county where the property is located of that owner's current address and, within 30 days of the change, shall notify the assessor of any change of address.

“(2) A notice required under subsection (1) of this section does not meet the requirements of this section unless the notice is in writing and:

“(a) For an individual, the notice contains the residence address of

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.
DECISION CASE NO. 021087A

the person.

“(b) For any other person, the notice contains the name and address of persons upon whom process may be served.

“(3) The county assessor of each county shall maintain records showing the information required to be submitted to the assessor under this section. The assessor shall note any property owner's change of address on the tax rolls.

“(4) Subsection (1) of this section does not apply to any government body or government agency.”

ORS 308.212.

The first written notice the Olsens gave to the county of their new address was in July of 2002. If they had given written notice to the county within 30 days of their move to Tam McArthur Loop the change would have been reflected in the tax rolls and the tax statements would have been sent to their current address. Even if the testimony of Deschutes County is ignored and the exchanges at the tax collector's counter are assumed to be exactly as described by Mr. Olsen, the point remains that the Olsens, by statute, were obligated to do more, sooner.

The next point is the Olsens' argument that Deschutes County should have deduced that the Olsens had moved and found them before interest could accumulate. However, while it is definitely a good idea for the county to examine its returned mail, arguing about whether the county might have found the Olsens earlier overlooks the point that the county ought not to have had to look for the Olsens at all. As the previous discussion indicates, it is not the county's obligation to search for the taxpayer. Instead, it is the taxpayer's responsibility to search the county and make sure its records are correct. This logic was clearly expressed in *Taft Church v. Dept. of Rev.*, 14 OTR 119, 122 (1997), in which it was said that:

"This situation highlights the need for property owners to audit the government's property tax records. Most taxpayers are familiar with our

income tax systems under which *taxpayers* keep the records and assess the tax, and the government audits for accuracy and correctness. In contrast, the property tax system requires the *government* to keep the records and assess the tax, and the taxpayer audits for accuracy and correctness."

The manner in which property tax payments are imposed and collected is set out in considerable detail in the statutes. Those statutes assign to the taxpayer the responsibility of keeping the assessor and tax collector informed of their correct address. The Olsens were experienced taxpayers who knew taxes were annually assessed, and who had taken measures in the past to tell the assessor of changes to their address. However, these individuals let a whole year pass without making a property tax payment at a time they were living in a home with a total real market value of more than half a million dollars. The court cannot find a reason in such a situation to

///

///

///

///

///

///

///

///

///

///

ignore the statutes and prior decisions of this court. The interest was correctly assessed. The appeal is denied.

CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that the appeal is denied.

Dated this _____ day of December, 2002.

SCOT A. SIDERAS
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 SCOT A. SIDERAS ON DECEMBER 16, 2002. THE COURT FILED THIS DOCUMENT ON DECEMBER 16, 2002.