

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

GERALD G. RIEHL,)
)
 Plaintiff,) TC-MD 030011D
)
 v.)
)
 MARION COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff appeals Defendant's denial of his application for war veteran's property tax exemption for tax year 2002-2003. Plaintiff also requests that Defendant reimburse him for the court's filing fee. A case management conference was held on Thursday, February 27, 2003. Mr. Gerald Riehl appeared on his own behalf. Ms. Marci Ferries, Department Specialist 4, appeared on behalf of Defendant. The case management conference was converted to a trial.

STATEMENT OF FACTS

On January 3, 2003, Defendant received an application for war veteran's property tax exemption from Plaintiff. Plaintiff properly completed the form and attached his disability certificate, as required. Defendant granted Plaintiff's application for tax year 2003-2004. Defendant denied Plaintiff's request that the exemption be granted for tax year 2002-2003.

Plaintiff's Complaint stated that he is "rated 100% Disabled by the V.A." He wrote that while he purchased his home in October, 2001 no one made him "aware of this [exemption]."

After receiving notification from Defendant that his application was not granted for tax year 2002-2003, Plaintiff was "erroneously given a Magistrate appeal form to file an

appeal regarding the denial of a veteran's exemption for the 2002-03 tax year." (Def's Letter dated February 27, 2003.) Defendant acknowledged in its letter to the court that "it was the responsibility of our office to provide Mr. Riehl with the proper appeal forms." (*Id.*) Defendant wrote that Plaintiff could have appealed to the Oregon Department of Revenue (Department) seeking a review of the county's ruling under "the hardship statute" (ORS 307.475). However, Defendant noted that to appeal for tax year 2002-2003 Plaintiff's appeal to the Department should have been filed "on or before December 15, 2002." (*Id.*) Because Plaintiff's application was filed in 2003, Defendant implied that it was unlikely Plaintiff's appeal if filed with the Department would have been timely.

COURT'S ANALYSIS

ORS 307.260¹ provides the procedure for applying for a war veteran's property tax exemption as follows:

"(1)(a) Each veteran or surviving spouse qualifying for the [war veteran's exemption] shall file with the county assessor, on forms supplied by the assessor, a claim therefor in writing on or before April 1 of the assessment year for which the exemption is claimed[.]"

For tax year 2002-2003, Plaintiff did not file a timely application. Plaintiff argued that he had no knowledge of the exemption program and wondered how he could be required to apply for an exemption he did not know existed at the time he was supposed to file an application.

Plaintiff's concerns are legitimate and sincere. The statute, however, does not require counties to advertise the exemption program or otherwise put into place an educational program to advise the public about the exemption. However, Defendant stated that annually the county places a notice in the local newspaper.

¹ All references to the Oregon Revised Statutes (ORS) are to 1999.

The statute does require that the applications for exemption be submitted by April 1 of the assessment year. ORS 307.260(1)(b) provides the consequences for failure to file an application within the statutory time frame as follows:

"If the claim for any year is not filed within the time specified, the exemption shall not be allowed on the assessment roll for that year."

Because Plaintiff qualified for the exemption in tax year 2003-2004, it is likely Plaintiff would have qualified for tax year 2002-2003 if he would have filed the application and disability certificate prior to April 1, 2002. Plaintiff did not file a timely application and, under the statute, the exemption "shall not be allowed." Plaintiff's appeal is denied.

Plaintiff requests that Defendant reimburse him for the court's filing fee. In response to Plaintiff's request as to how he could appeal Defendant's denial of his application for tax year 2002-2003, Defendant admitted that it "erroneously" suggested that Plaintiff appeal to the Magistrate Division of the Oregon Tax Court. Defendant acknowledged that there is an administrative appeal process and if Defendant was undertaking to respond to Plaintiff's question concerning an appeal Defendant should have directed Plaintiff to the Department. Defendant wrote that "[t]he proper appeal procedures and guidelines will be reviewed with our front reception staff that provided the erroneous information to Mr. Riehl." (Def's Letter dated February 27, 2003.) Further, Defendant apologized "for the frustration and inconvenience this had caused." (*Id.*) Defendant wrote that it is "not in a position to refund Mr. Riehl's filing fee to the court, unless a written order is received * * * ordering us to do so." (*Id.*) Because Defendant accepts responsibility for Plaintiff being in the Tax Court, the court grants Plaintiff's request that he recover the court's filing fee in the amount of \$25.00 from Defendant.

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CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's denial of Plaintiff's application for a war veteran's property tax exemption for tax year 2002-2003 is affirmed.

IT IS FURTHER DECIDED that the court's filing fee in the amount of \$25.00 paid by Plaintiff will be reimbursed by Defendant.

Dated this _____ day of March, 2003.

JILL A. TANNER
PRESIDING 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 JILL A. TANNER ON MARCH 26, 2003. THE COURT FILED THIS DOCUMENT ON MARCH 26, 2003.