

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

BARBARA CARLSON and BRIAN)
CARLSON,)
)
Plaintiffs,) TC-MD 030042A
)
v.)
)
WASHINGTON COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

The Carlsons have appealed, for the 2001-02 tax year, the assessment of their home, identified by Account R2098500. Barbara Carlson appeared for Plaintiffs. Tony Rosatti, of Defendant's staff, responded.

STATEMENT OF FACTS

The total real market value of the Carlsons' property as carried on the roll for the year in question is \$384,260. Ms. Carlson, a realtor, presented six sales of similar homes at prices from \$319,000 to \$359,900, and the steepness of her home's driveway, as reasons why the roll should be lowered to the \$337,190 for which they purchased the property in May 2001.

ANALYSIS

This court cannot give the Carlsons the relief that they request. This appeal is not a timely appeal from the order of the board of property tax appeals, under ORS 305.275 and ORS 305.280.¹ Instead, it is a request that the court review tax years otherwise closed. The only applicable statute is ORS 305.288.

The provisions of ORS 305.288 are not generous. As this is residential property,

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.
DECISION TC-MD 030042A

the court could consider ordering a correction to the roll if the difference between the real market value of the property and its real market value as carried on the assessment and tax roll is 20 percent or more. A 20 percent difference in this case results from a showing that the real market value of this property is \$307,408. Even if the Carlsons' evidence is given the benefit of every possible inference, it does not support this conclusion. In the alternative, ORS 305.288 permits the court to inquire into an otherwise closed tax year if there is a "good and sufficient cause" explaining why no appeal was made. However, the statute defines good and sufficient cause as an "extraordinary circumstance that is beyond the control of the taxpayer.

ORS 305.288(5)(b)(A). It specifically excludes instances of inadvertence, oversight, lack of knowledge, hardship, or, in most instances, reliance on misleading information. ORS 305.288(5)(b)(B).

CONCLUSION

Naturally enough, the conclusion that the court does not have the ability to order the relief they requested is a disappointment to the Carlsons, who at one point during the proceeding held as to their appeal specifically questioned if there was an element of malice in the court's handling of appeals in instances where the case will later be dismissed. The court explained to the Carlsons, and it repeats now, that its scheduling of cases is done, not from the personal perspectives of the individuals who implement the law, but instead to collect, in a manner both impersonal and conspicuously fair, the facts that govern the resolution of the case. The information the Carlsons filed with the court was equivocal. Some proceeding, in this case a telephone conference, was necessary to set out the facts. In the end those facts had to be applied to a law which was written by the legislature and implemented by the Tax Court, and does not permit the court to give the

Carlsons what they want.

The court makes this point as a prelude to introducing another, which while presented at trial, may have been lost on the Carlsons in their frustration. Although the court lacks the ability to order the relief requested by Defendant, another entity does. As was explained during the conference, the Department of Revenue does have the power to order relief, under ORS 306.115, to the Carlsons. If the Carlsons have not already taken advantage of this opportunity, they are urged again to do so. Now, therefore,

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

Dated this _____ day of June, 2003.

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 JUNE 25, 2003. THE COURT FILED THIS DOCUMENT ON JUNE 25, 2003.