

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

RYAN K. SMITH and JENNA S. SMITH,)
)
 Plaintiffs,) TC-MD 030224C
)
 v.)
)
 WASHINGTON COUNTY ASSESSOR,)
)
 Defendant.) **DECISION AND JUDGMENT**

Plaintiffs appeal the real market value of their home for tax year 2001-2002. A hearing was held by telephone June 23, 2003, to determine if Plaintiffs' appeal could go forward under ORS 305.288.¹ Ryan Smith appeared for Plaintiffs. Tony Rosatti appeared for Defendant.

STATEMENT OF FACTS

Plaintiffs' home was completed in 2000 and put on the tax rolls for the 2001-02 tax year. Plaintiffs filed a Complaint with the Oregon Tax Court in March 2003, claiming that the house's original real market value was overstated and therefore, the assessed value was overstated. Plaintiffs are asking for a reduction in the real market value of the property for the 2001-02 tax year based on an appraisal completed in March 2001.

ANALYSIS

When a taxpayer wants to challenge the real market and assessed values assigned to their property, the first step in the appeal process is to file a petition with the local county board of property tax appeals (board). Taxpayers are required to file appeals with the appropriate county board by December 31 of the current tax year. ORS 309.100(2).

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

In the case at hand, Plaintiffs failed to timely exhaust their remedy with the board, so the court must first determine whether it has authority to consider the appeal before addressing the underlying valuation issue. *Seifert v. Dept. of Rev.*, 14 OTR 401 (1998). The legislature granted the court authority to hear property tax appeals when a taxpayer has failed to appeal to the county board, but only when one of two circumstances is present. The first is when the taxpayer alleges an error in value equal to or greater than 20 percent. ORS 305.288(1). The second is when the taxpayer can establish "good and sufficient cause" for not timely pursuing an appeal with the county board. ORS 305.288(3).

"To meet the 20 percent error rule the taxpayer must demonstrate that the difference between the real market value of the property and its real market value as carried on the assessment and tax roll for the tax year in dispute is equal to or greater than 20 percent."

Reis v. Clackamas Co., OTC-MD No 020930A, WL 215376

(Jan 24, 2003). In the case at hand, the real market value on the tax roll for tax year 2001-2002 was \$283,750. The appraisal completed in March 2001, on which Plaintiffs base their request for relief, shows a real market value of \$265,000. This produces a difference of \$18,750, or 6.6 percent. This does not meet the 20 percent error rule, and therefore does not give the court authority to hear the appeal.

Even though the taxpayer has failed to meet the 20 percent rule, the court may still hear the appeal if there is "good and sufficient cause" for not timely pursuing an appeal with the county board. ORS 305.288(3). The statute provides:

"(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.”

ORS 305.288(5).

In this case, Plaintiffs have not demonstrated an extraordinary circumstance beyond their control that prevented them from filing an appeal with the county board in a timely manner. Plaintiffs' first reason for not timely filing an appeal is that they were not “in tune” at the time with what the property value should actually be. It was not until after the appeal deadline had passed that the disconnect between the values was discovered. It appears, however, that at the time Plaintiffs received the property tax statement for the 2001-2002 tax year, the appraisal had already been completed. Plaintiffs, therefore, had the opportunity to compare the values and appeal any discrepancies by December 31, 2001. Even if Plaintiffs were unaware of the magnitude of the problem, the statute specifically excludes lack of knowledge from the definition of “good and sufficient cause”. Therefore, Plaintiffs' lack of knowledge about the value error is not considered “good and sufficient cause.” See *Chang v. Mult. Co.*, OTC-MD No 010124E, WL 586754 (May 4, 2001) (Small Claims).

Plaintiffs' second reason for not timely filing an appeal with the county board is that they wanted a higher property value at the time for refinancing purposes and later decided a lower value was more important for property tax purposes. The statute states that “good and sufficient cause” is an extraordinary circumstance beyond the control of the taxpayer that causes the taxpayer to fail to pursue the statutory right of appeal. ORS 305.288(5). In this case, Plaintiffs apparently made a conscious choice not to file a timely appeal because at the time the board appeal was to be filed they wanted a high property value. That conscious decision was not an extraordinary

circumstance beyond Plaintiffs' control. Rather, Plaintiffs' motives simply changed. Plaintiffs' decision not to appeal cannot be considered "good and sufficient cause."

CONCLUSION

The court does not have authority to review Plaintiffs' claim because they have not demonstrated a 20 percent error in the real market value of their property and do not have good and sufficient cause for failing to appeal to the board of property tax appeals. Now, therefore,

IT IS ADJUDGED AND DECREED that Plaintiffs' appeal is denied.

Dated this _____ day of July, 2003.

DAN ROBINSON
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON
JULY 10, 2003. THE COURT FILED THIS DOCUMENT ON JULY 10, 2003.**