

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

WILLIAM J. PARSONS and MARY C. PARSONS,)	
)	
Plaintiffs,)	TC-MD 030288F
)	
v.)	
)	
WASHINGTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on its own motion to dismiss, discussed at the status conference held June 18, 2003. Mary Parsons appeared for Plaintiffs. Tony Rosatti appeared for Defendant. This appeal concerns Plaintiffs' property and its real market value for tax year 2002-2003.

The property is identified in the Washington County tax records as Account R2081410. No petition was earlier submitted to the county board of property tax appeals. The first, and only, complaint was filed with the Magistrate Division on March 24, 2003.

Plaintiffs purchased the property from a relocation company in February 2003 for \$315,000. The relocation company purchased it from the prior residents in July 2002 for approximately \$350,000. For whatever reason, the relocation company did not appeal to the board of property tax appeals.

Defendant has inspected the property and now agrees that the real market value of the property should be reduced. Because there were newly constructed improvements, the value of those improvements was placed on the 2002-03 tax roll as exception value. Thus,

any reduction to the value of the improvements would result in a corresponding reduction to maximum assessed value.

To contest assessed values, taxpayers typically must appeal to their county board of property tax appeals by December 31 of each tax year. ORS 309.100.¹ Plaintiffs did not timely appeal the year at issue because they did not own the property until after the appeal period expired.

The legislature has given the court limited authority to consider appeals when the party did not first appeal to the board of property tax appeals. ORS 305.288(1) states:

"The tax court shall order a change or correction * * * to the assessment and tax roll for the current tax year or for either of the two tax years immediately preceding the current tax year * * * if all of the following conditions exist:

"(a) For the tax year to which the change or correction is applicable, the property was or is used primarily as a dwelling * * *.

"(b) The change or correction requested is a change in value for the property for the tax year and it is asserted in the request and determined by the tax court that the difference between the real market value of the property for the tax year and the real market value on the assessment and tax roll for the tax year is equal to or greater than 20 percent."

The parties agree that the proposed reduction is less than 20 percent.

Plaintiffs have a second opportunity for the court to be able to hear their appeal.

ORS 305.288(3) states:

"The tax court may order a change or correction * * * to the assessment or tax roll for the current tax year * * * if, * * * the assessor or taxpayer has no statutory right of appeal remaining and the tax court determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal."

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

Good and sufficient cause is "an extraordinary circumstance that is beyond the control of the taxpayer." ORS 305.288(5)(b)(A). Further, good and sufficient cause "[d]oes 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)(b)(B).

Plaintiffs did not timely appeal the 2002-03 real market value because they did not purchase the property until February 2003, after the appeal period had expired. The Regular Division of the Tax Court has previously held that "[i]f a subsequent owner does not have an interest in the property until after the period for appeal has expired, the subsequent owner can never show good and sufficient cause for failing to appeal timely." *Enterprise Rent-A-Car Co. v. Dept. of Rev.*, 12 OTR 259, 260-261 (1992). Consequently, the court cannot reach tax year 2002-03 under the good and sufficient cause provision.

At the case management conference the court discussed with the parties a supervisory appeal to the Department of Revenue. See ORS 306.115(3). Plaintiffs may be able to obtain relief through a supervisory appeal to the Department, particularly because the parties agree to the value of the property. See OAR 150-306.115(3)(b)(A) & (ii) ("[t]he substantive issue in a petition will be considered under ORS 306.115(3) when: * * * [t]he parties to the petition agree to facts which indicate it is likely that an error exists on the roll"). Rosatti agreed to contact the Department of Revenue to determine the best way for Plaintiffs to proceed with a supervisory appeal because the parties agree to facts which indicate it is likely that an error exists on the roll.

For the reasons discussed above, the court finds that Plaintiffs' Complaint must be dismissed. Now, therefore,

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

Dated this _____ day of July, 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 JULY 10, 2003. THE COURT FILED THIS DOCUMENT ON JULY 10, 2003.