

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

BILINCO, INC.,)
)
 Plaintiff,) TC-MD 030516C
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION AND JUDGMENT**

Plaintiff appealed the value of its personal property, identified as Multnomah County Assessor's Account number P393624, for the 2002-03 tax year. The appeal was filed in April 2003 from an order of the Multnomah County Board of Property Tax Appeals (board) dismissing the petition for lack of jurisdiction due to untimeliness. The November 6, 2003, case management conference was converted to a hearing in order for the court to hear sworn testimony on the issue of good and sufficient cause as provided in ORS 305.288.¹

I. STATEMENT OF FACTS

Plaintiff acknowledges that the petition to the board was not timely filed. Alan Corzall (Corzall), CPA, testified that he prepared the board petition around the end of the year (2002) and Linda Farnsworth, with Bilinco, Inc., came in to sign the petition. For reasons unknown by Corzall, the petition was inadvertently set aside. Corzall discovered the unmailed petition on his desk among a stack of files after the first of the year and shortly thereafter mailed the petition to the board. The board subsequently issued an Order of Dismissal on March 28, 2003. The order indicates that the board lacked jurisdiction to hear the issue appealed because the petition was not timely filed. The issue

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

before the court is whether Plaintiff's appeal from the Order of Dismissal is properly before the court.

II. ANALYSIS

The primary statutory right of appeal in a property valuation dispute is found in ORS 305.275. However, as a precursor to a Tax Court appeal, the taxpayer must file a timely petition with the board. See ORS 309.026 and ORS 309.100. The board's order may then be appealed to the Magistrate Division of the Oregon Tax Court.

ORS 309.110(7). The appeal to the Tax Court from an order of the board must of course be timely filed in accordance with ORS 305.280(4). When that statutory right of appeal is not properly followed, the taxpayer may still appeal to the Tax Court, but additional requirements are imposed. The applicable statute is ORS 305.288, and subsection (3) provides:

“The tax court may order a change or correction applicable to a separate assessment of property * * * if, for the year to which the change or correction is applicable 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.”

The operative language in the statute is “good and sufficient cause.” Subsection (4) of that statute provides that if the court determines that good and sufficient cause exists, it may then go on to determine whether the value should be changed or corrected. Because the taxpayer in this case did not properly pursue the statutory right of appeal by timely petitioning the board, the court must determine whether the relevant circumstances satisfy the good and sufficient cause standard.

Good and sufficient cause is defined in the statute as “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.” ORS 305.288(5)(b)(A). According to the testimony, the petition was filled out and signed before the deadline, but it was not timely mailed. The reason the petition was late is that it was misplaced by Plaintiff’s accountant or his office assistant. The statutory provision defining good and sufficient cause provides an additional qualifier to the definition.

“(b) ‘Good and sufficient cause’:

“* * * * *

“(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)

Misplacing a petition intended for the mail and required to be mailed on or before a specified date (December 31, 2002) constitutes inadvertence or oversight. As such, it does not meet the statutory definition of good and sufficient cause.

III. CONCLUSION

The court is unable to proceed to the merits of the appeal, which involve a request for a value reduction, because Plaintiff did not timely petition the board before coming to the court and the reason the petition was not timely filed falls outside the definition of good and sufficient cause. Now, therefore,

IT IS ADJUDGED AND DECREED that Plaintiff’s appeal is dismissed.

Dated this _____ day of November, 2003.

DAN ROBINSON
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON
NOVEMBER 14, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 14,
2003.**