

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DURGA LAXMI, INC.,)	
)	
Plaintiff,)	TC-MD 030763E (Control)
)	030764E
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

Defendant filed a Motion to Dismiss in each of the above-numbered cases. The court discussed Defendant's motions with the parties during the case management conference held July 29, 2003. James C. Ryan (Ryan) appeared on behalf of Plaintiff. Chris Johnson and Richard Deich appeared on behalf of Defendant. Because the two cases involve the same issue of timeliness, the court has consolidated the matters for decision.

I. STATEMENT OF FACTS

Plaintiff timely filed appeals with the Multnomah County Board of Property Tax Appeals for Accounts P507771 and R209412. On March 21, 2003, the board mailed its Order for Account R209412. On March 28, 2003, the board mailed its Order for Account P507771. Plaintiff appealed both of those Orders by mailing Complaints to the court on April 30, 2003. Because the Complaints were not mailed within 30 days of the board Orders, Defendant claims the appeals should be dismissed.

II. ANALYSIS

ORS 305.280(4) sets forth when a party is required to file an appeal from a

decision of the board.¹ The statute states, in pertinent part:

“(4) * * * an appeal to the tax court * * * from an order of a county board of property tax appeals shall be filed within 30 days after the * * * date of mailing of the order * * * .”

ORS 305.280(4).

As mentioned, the board mailed its Orders on March 21, 2003, and March 28, 2003. Plaintiff did not mail its appeals to this court until April 30, 2003. The appeals, therefore, were not filed within the requisite thirty-day period. The appeals are untimely.

Although the appeals are not timely, the court’s inquiry does not end. The legislature recognized that situations may exist that prevent taxpayers from timely pursuing their statutory right of appeal. As a result, the legislature granted the court authority to review untimely appeals when the taxpayer establishes “good and sufficient cause” for not timely pursuing his appeal. ORS 305.288(3). 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 and for either of the two tax years immediately preceding the current tax year if, for the year to which the change or correction is applicable the * * * taxpayer has no statutory right of appeal remaining and the tax court determines that **good and sufficient cause exists for the failure by the * * * taxpayer to pursue the statutory right of appeal.**”

(Emphasis added.)

The statute defines good and sufficient cause as follows:

“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

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

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)(b) (emphasis added).

During the conference, Ryan offered no significant reason for Plaintiff’s failure to timely file appeals from the board’s Orders. His only response was that he thought the appeals had been submitted within the required period. A review of the dates, however, demonstrates otherwise. With no reason provided that would excuse Plaintiff’s failure to timely file its appeals, the court finds it is without authority to accept review of the appeals under the provisions of ORS 305.288.

III. CONCLUSION

The court finds that Plaintiff failed to file appeals with the court within 30 days of the board’s Orders. The court further finds that Plaintiff does not have “good and sufficient cause” for failing to timely file its appeals. As a result, the court concludes the appeals should be dismissed. Now, therefore,

IT IS THE DECISION OF THE COURT that the above-entitled matters be dismissed.

Dated this _____ day of August, 2003.

COYREEN R. WEIDNER
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE

STREET, SALEM, OR. 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 COYREEN R. WEIDNER ON AUGUST 1, 2003. THE COURT FILED THIS DOCUMENT ON AUGUST 1, 2003.