

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

SUSAN HANSEN,)
)
 Plaintiff,) TC-MD 030816A
)
 v.)
)
 JACKSON COUNTY ASSESSOR,)
)
 Defendant.) **DECISION AND JUDGMENT**

Plaintiff has appealed the assessment, for the 2002-03 tax year, of property identified by Account 10096931. Susan Hansen (Hansen) appeared and made her arguments. Defendant was represented by John Scarvie, of its staff.

I. STATEMENT OF FACTS

The property at issue is some 107 acres of rural tract land which Hansen purchased in January 2002 for \$242,000 in a transaction that included an adjacent 6.2 acre parcel. Plaintiff explained that the basis for the appeal was the increase in assessed value, on the order of 150 percent, between the 2001-02 and 2002-03 tax years. Total assessed value for the year at issue was \$57,140.

Defendant explained that the increase in assessed value was due to the discovery that the property could now support a building site due to the presence of a gravel drive, septic approval, well, and solar power.

This property did not come to the court by way of an earlier appeal to the board of property tax appeals (the board). Hansen explained that, having not received a tax statement by April 2003, she contacted Defendant. As the appeal period to the board had lapsed, she elected to proceed directly to the Tax Court.

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Defendant recommended a change to the improvement value, urging that its total of \$5,420 be removed from the roll.

II. ANALYSIS

This appeal places the court in a difficult position. Plaintiff has come to the court requesting relief. Defendant is prepared to meet Plaintiff at least part way, recommending that the court strike the improvement value from the roll. Regrettably, the court cannot satisfy the litigants.

The reason is that no appeal was first made to the board. Without a timely appeal to the board, the only avenue to this court for properties of this character is by ORS 305.288.¹ As this property has not been improved with a dwelling, the only aspect of ORS 305.288 which might apply is ORS 305.288(4), which permits the court to reach instances where the failure to appeal to the board was for good and sufficient cause.

Plaintiff would present her failure to receive the tax statement giving her notice of the value in a timely manner as good and sufficient cause excusing her failure to make a timely appeal. The Oregon Supreme Court has held, however, that every taxpayer is responsible for knowing their property is taxable. *Hood River County v. Dabney*, 246 Or 14, 423 P2d 954 (1967). Under this reasoning, the fact that a taxpayer did not receive a tax statement does not excuse him or her from failing to timely appeal to the county board. *See generally GTB Assoc. v. Multnomah County Assessor*, OTC-MD No 000096C, WL 502651 (April 24, 2000) and *Mack v. Clackamas County Assessor*, OTC -MD No 990799E, WL 1567176 (August 31, 1999).

As to property of this character, with no timely appeal from the board, and

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

circumstances outside the reach of ORS 305.288, the court simply cannot reach the problem presented by the litigants to impose even a partial solution. However, an important point is that, although this matter is outside the reach of the court, another entity does have the ability to address the situation. The Oregon Department of Revenue has an administrative power under ORS 306.115 that permits it to hear claims such as this and, if it is satisfied that certain conditions exist, extend relief. Plaintiff is urged to present this situation to that agency.

III. CONCLUSION

Now, therefore,

IT IS ADJUDGED AND DECREED that this appeal is dismissed.

Dated this _____ day of September, 2003.

SCOT A. SIDERAS
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON
SEPTEMBER 19, 2003. THE COURT FILED THIS DOCUMENT ON SEPTEMBER
19, 2003.**