

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

ASAD SHIRAZI, )  
 )  
 Plaintiff, ) TC-MD 030842B  
 )  
 v. )  
 )  
 MULTNOMAH COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

Plaintiff appeals Defendant’s assessment of personal property taxes owed for the 1998-1999, 1999-2000, and 2000-2001 tax years. In its answer, Defendant made a motion to dismiss based on Plaintiff’s failure to seek relief through the Multnomah County Board of Property Tax Appeals (the board). Although provided an opportunity, Plaintiff did not respond to Defendant’s motion.

**I. STATEMENT OF FACTS**

Plaintiff is the owner of Arrow Imports, an automobile dealership located in Portland, Oregon. After Plaintiff failed to file a property tax return for the 1998-1999 tax year, Defendant issued a notice on June 17, 1999, informing him of the need to file the return. Plaintiff’s failure to respond to that notice resulted in an estimated assessed value of \$50,500 being added to the tax rolls in Plaintiff’s name. The tax bill Plaintiff received in the fall of 1999 provided him with actual notice of the assessed value so determined. Plaintiff never paid those personal property taxes for the property in question for that 1998-1999 tax year. A personal property tax warrant was then issued (January 20, 2000) for the amount owed, and a lien was placed on Plaintiff’s property for the amount of taxes due.

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Plaintiff also failed to pay personal property taxes for the subject property for the subsequent 1999-2000 and 2000-2001 tax years. Personal property tax warrants for those years were issued on January 3, 2001, and December 27, 2001, respectively. Prior to the December 27, 2001, warrant, Defendant sent Plaintiff a notice of its intent to place a lien of over \$5,100 on Plaintiff's property unless Plaintiff paid the amount of tax owed in November 2001. Plaintiff never paid the amount Defendant claims is owed.

Plaintiff filed a Property Appeal Petition with the Oregon Department of Revenue on May 5, 2003. He filed his Complaint with this court on May 30, 2003.

## II. ANALYSIS

The issue presented in the motion to dismiss is whether Plaintiff is properly before the court or whether he was first required to appeal to the Multnomah County Board of Property Tax Appeals for each of these earlier tax years.

In this case, Plaintiff seeks to have the assessed value of the property in question reduced. That issue is within the domain of the board. ORS 309.026(2)(a).<sup>1</sup> Thus, the board had the authority to hear a timely petition on Plaintiff's issue. As a result of Plaintiff's failure to pursue an administrative remedy by appealing to the board, he is precluded from seeking relief from this court by ORS 305.275(3).

However, the legislature has granted the court limited authority to hear an appeal when the taxpayer has failed to first appeal to the board of property tax appeals. ORS 305.288(3) allows the court to "order a change or correction applicable to a separate assessment of property 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 \* \* \* taxpayer has no statutory right of appeal remaining and the tax court determines that **good and sufficient**

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<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.  
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**cause** exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal.” (Emphasis added.) “Good and sufficient cause” is defined as “an extraordinary circumstance that is beyond the control of the taxpayer \* \* \* and that causes the taxpayer \* \* \* to fail to pursue the statutory right of appeal.”

ORS 305.288(5)(b)(A). “‘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).

Here, the lack of earlier appeals at the county level is due to reasons of inadvertence or oversight. Plaintiff did not provide sufficient evidence of probative reasons for his failure to file an appeal with the board. Therefore, the exception provided by ORS 305.288 is inapplicable.

### **III. CONCLUSION**

Plaintiff’s failure to file an appeal with the Multnomah County Board of Property Tax Appeals prevents him from seeking relief from this court. Analysis of this case is consistent with prior decisions of the Oregon Tax Court. *See 23<sup>rd</sup> and Flanders LLC v. Multnomah County Assessor*, OTC-MD No 030044C, WL 21312721 (June 4, 2003); *Harpco LLC v. Multnomah County Assessor*, OTC-MD No 020804C, WL 32104965 (Nov 13, 2002); *Eagle Newspapers, Inc. v. Wasco County Assessor*, OTC-MD No 020052B, WL 976010 (March 21, 2002); *Flying M LLC v. Multnomah County Assessor*, OTC-MD No 000954C, WL 33244231 (Oct 23, 2000); *Nicola v. Multnomah County Assessor*, OTC-MD No 000190F, WL 1072383 (May 5, 2000). Now, therefore,

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IT IS THE DECISION OF THIS COURT that Defendant's motion to dismiss is granted.

Dated this \_\_\_\_\_ day of November, 2003.

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JEFF MATTSON  
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 JEFF MATTSON ON NOVEMBER 4, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 4, 2003.**