

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

SUNRISE ESTATES PARTNERSHIP,)	
)	
Plaintiff,)	TC-MD 030889E (Control);
)	030890E; 030891E
v.)	
)	
BAKER COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-entitled appeal. The court discussed its motion with the parties during the case management conference held September 10, 2003. Jerry Corn (Corn) appeared on behalf of Plaintiff. Carey Savage appeared on behalf of Defendant.

STATEMENT OF FACTS

Plaintiff appeals the 2000-2001, 2001-02, and 2002-03 real market values assigned to a small tract of land identified as Account 0347. Defendant agrees the real market value should be reduced for each year. As a result, the parties submitted a Stipulated Agreement for each year to the court. Generally, when the court receives a signed agreement, it issues a judgment based on that agreement. Plaintiff, however, failed to file appeals each year with the board of property tax appeals (BOPTA) before coming to this court. Consequently, although the parties agree a value reduction is warranted, the court must determine whether it has authority to grant the relief under ORS 305.288¹ because Plaintiff failed to exhaust its administrative remedy. See *Seifert v. Dept. of Rev.*, 14 OTR 401 (1998).

¹ All references to the Oregon Revised Statutes are to 2001.

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ANALYSIS

The Oregon Legislature has developed an appeals system for taxpayers to follow when challenging the assessed and real market values assigned to their properties. The first step in the appeal process is to a county BOPTA. Taxpayers are required to file appeals with the appropriate county board by December 31 of the current tax year. ORS 309.100(2).

The legislature recognized situations may exist that prevent a taxpayer from timely appealing to the county board. 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 an appeal with the county board.² ORS 305.288(3). The statute 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.**”

ORS 305.288(3) (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 right of appeal; and

“(B) Does not include inadvertence, oversight, lack of knowledge, hardship or reliance on misleading information provided by any person

² Review by the court is also permitted under ORS 305.288(1) for properties used primarily as dwellings when an error of 20 percent or greater is alleged. The account at issue is a land only account; therefore, the 20 percent error provision does not apply.

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except an authorized tax official providing the relevant misleading information.”

ORS 305.288(5)(b) (emphasis added).

Plaintiff offered no substantial reason for its failure to file appeals with the BOPTA each year. Corn indicated Defendant was aware of Plaintiff’s concerns involving the value but Plaintiff simply did not file appeals. The statutory definition of good and sufficient cause excludes inadvertence and oversight from constituting good and sufficient cause. The court finds, therefore, that Plaintiff lacks good and sufficient cause for failing to timely pursue its statutory remedy each year. As a result, the court lacks authority to consider the matter.³ Now, therefore,

IT IS ADJUDGED AND DECREED that this matter be dismissed.

Dated this ____ day of September, 2003.

COYREEN R. WEIDNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON SEPTEMBER 23, 2003. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 23, 2003.

³ As suggested at the conference, the parties may consider submitting their agreements to the Department of Revenue for its consideration.