

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

LAVERNE LIDGETT and SHARON)	
LIDGETT,)	
)	
Plaintiffs,)	TC-MD 030921C
)	
v.)	
)	
TILLAMOOK COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

This case involves a clerical error correction affecting tax years 1997-98 through 2001-02, inclusive. In their Complaint, Plaintiffs requested “complete relief” from the retroactive assessment. Alternatively, Plaintiffs request a yearly payment plan whereby one year of additional taxes would be paid each year for five years, without interest. At the October 2, 2003, case management conference, during which the parties submitted the case to the court for decision, Laverne Lidgett (Lidgett), who appeared for Plaintiffs, pressed the payment plan request. Denise Vandecoevering (Vandecoevering), appearing for Defendant, explained the basis for the correction and her understanding of the payment options available under the law.

I. STATEMENT OF FACTS

The following undisputed facts were conveyed to the court. Plaintiffs are retired and live on a fixed income. They do not have credit sufficient to borrow the money to pay the tax, which comes to \$1,283.93. Unless they are granted a payment plan, Plaintiffs’ taxes will become delinquent.

Vandecoevering explained that the reason for the correction was to add the maximum assessed value (MAV) of the land, which was dropped from the rolls when

Defendant was changing land codes for fire patrol districts for the 1997-98 tax year because of the addition of Plaintiffs' home. The change in the land codes was necessary because fire patrol districts change when improvements are added to bare land.

II. ANALYSIS

ORS 311.205¹ authorizes the assessor to correct errors or omissions in the roll where there has been a clerical error. The administrative rule promulgated by the Department of Revenue defines a clerical error as “an arithmetic or copying error or an omission on the roll or misstatement of property value that is apparent from assessor office records without speculation or conjecture, assumption or presumption, and that is correctable without the use of appraisal judgment or the necessity to view the property.” OAR 150-311.205(1)(a)(1).² Among the examples found in that rule is a situation where the value of a home is placed on the wrong account. OAR 150-311.205(1)(a)(3)(a), Example 1. Similarly, in the present case employees in the assessor's office apparently dropped a component of the MAV (for the land) and are correcting the problem per the statute. Plaintiffs have provided no information to show that the correction was made contrary to the statute.

As indicated above, Plaintiffs' real hope is that the court will allow them to pay the taxes over time instead of all at once on the tax bill for the 2003-04 tax year. Payment of the tax, however, is governed by statute. ORS 311.206(1) provides:

“When the roll is corrected under ORS 311.205, and taxes are added to the roll, the additional taxes shall be added to the tax extended against the property on the general property tax roll for the tax year following the current tax year, to be collected and distributed in the same manner as other ad valorem property taxes imposed on the property.”

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

² All or references to the Oregon Administrative Rules (OAR) are to January 2002.

The correction in this case was made in May 2003, which was during the 2002-03 tax year. See ORS 308.007. Accordingly, the additional taxes were added to the roll for the 2003-04 tax year, which was “the tax year following the current tax year” at the time of the correction. There is no provision in the law for the type of payment plan Plaintiffs request. In a similar case decided by this court last year, the county assessor’s office contacted the Department of Revenue, a state agency with general supervision of the property tax system in Oregon, to explore the payment plan issue and was informed that it had no administrative authority to grant such a request. See *Stelle v. Deschutes County Assessor*, OTC-MD No 020012D, WL 32102589 (Sept 24, 2002). Thus, neither the court, the county assessor, nor the Department of Revenue has the authority to allow a payment plan.

III. CONCLUSION

There is no evidence that the assessor erred in correcting the roll under the clerical error statute and the law does not allow for the type of payment plan Plaintiffs seek. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs’ appeal is denied.

Dated this _____ day of October, 2003.

DAN ROBINSON
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 DAN ROBINSON ON OCTOBER 16, 2003. THE COURT FILED THIS DOCUMENT ON OCTOBER 16, 2003.