

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

PAUL ZIMMERMAN,)
)
 Plaintiff,) TC-MD 030945F
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff appeals the assessment of \$2,250.37 in interest and \$550.60 in fees on taxes paid for the 1998-99 through 2001-02 tax years. The property is identified as Account R339080 by the Multnomah County Assessor. Paul Zimmerman appeared for himself. Pat Frahler (Frahler) appeared for Defendant.

I. STATEMENT OF FACTS

Plaintiff owns three contiguous parcels of property. He believes that he submitted change of address notifications to Defendant on all three parcels sometime during 1998. He timely received and paid tax statements on two of the parcels. He did not receive tax statements on the third parcel and only became aware that the property taxes had not been paid when he received a Statutory Redemption Notice from Defendant on June 19, 2003, notifying him that Multnomah County had foreclosed on the property for nonpayment of property taxes. On June 24, 2003, Plaintiff submitted a check to Defendant in the amount of \$8,031.26.

II. ISSUES

Plaintiff takes issue with the imposition of the interest and fees for two reasons. First, he points out that because he also owns the two contiguous parcels, Defendant could

have easily determined his correct address. Second, he points out that Defendant was able to determine his correct address when it sent him the Statutory Redemption Notice.

Frahler pointed out that Defendant changed the addresses on the two parcels by handwriting the new address on the property tax statement payment stubs returned with the payment for the 1997-98 tax year. There was no such change made for the parcel at issue. She further points out that Defendant has a heightened duty under foreclosure statutes to notify anyone who may have an interest in foreclosed property.

III. ANALYSIS

The Oregon Supreme Court is of the opinion that “every citizen ‘is presumed to have known that his land was taxable, that in due course it would be assessed, a tax levy extended against it, and * * * that it was his duty to timely pay his taxes.’” *Hood River County v. Dabney*, 246 Or 14, 28, 423 P2d 954 (1967). This is particularly so in the present case. The tax statements for the two contiguous parcels were timely received. In October of each year when tax statements were received for the two parcels but not the third, Plaintiff had a duty to inquire of Defendant as to the taxes due. The failure of Defendant to deliver a tax statement to him does not relieve him of the responsibility to make a timely payment. See ORS 311.250(2)¹ and *Gordon v. Dept. of Rev.*, 12 OTR 288 (1992).

In enacting ORS 311.250(2), the legislature has determined that all property owners are presumed to know, first, whether or not they have a property tax burden, and next, that the tax statements issue in the fall. Rather than place the duty on the assessor to give actual notice of the tax to the property owner, the property owner is required to take steps to see that the taxes are paid regardless of the mailing practices of the assessor.

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

As noted above, one of Plaintiff's arguments is that Defendant should have deduced Plaintiff's correct address based on the records for the contiguous parcels. However, although it is a good idea for Defendant to examine its returned mail, arguing about whether Defendant might have found Plaintiff earlier overlooks the point that Defendant ought not to have had to look for Plaintiff at all. As the previous discussion indicates, it is not the county's obligation to search for the taxpayer. Instead, it is the taxpayer's responsibility to audit Defendant's records and make sure those records are correct. This logic was clearly expressed in *Taft Church v. Dept. of Rev.*, 14 OTR 119, 122 (1997), in which the court stated:

"This situation highlights the need for property owners to audit the government's property tax records. Most taxpayers are familiar with our income tax systems under which *taxpayers* keep the records and assess the tax, and the government audits for accuracy and correctness. In contrast, the property tax system requires the *government* to keep the records and assess the tax, and the taxpayer audits for accuracy and correctness."

(Emphasis in original).

Plaintiff's second argument relates to the apparent ease with which Defendant located Plaintiff for purposes of the Statutory Redemption Notice. Defendant is required by ORS 312.125(1) to provide the Statutory Redemption Notice to "any person or entity entitled to redeem the property under ORS 312.120(2) whose interest appears in the records of the county as of the date foreclosure proceedings were instituted." Defendant was required by operation of the aforementioned language to provide Plaintiff with a Statutory Redemption Notice. No statute provides a similar duty when property taxes are not timely paid.

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IV. CONCLUSION

Defendant acted properly in imposing the interest and fees. The court may not ignore the statutes and prior decisions of this court. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is denied.

Dated this _____ day of October, 2003.

SALLY L. KIMSEY
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 SALLY L. KIMSEY ON OCTOBER 21, 2003. THE COURT FILED THIS DOCUMENT ON OCTOBER 21, 2003.