

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

RICHARD A. ROHR,)	
)	
Plaintiff,)	TC-MD 031122F
)	
v.)	
)	
YAMHILL COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND GENERAL JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss, discussed with the parties at the February 3, 2004, case management conference. This appeal concerns Plaintiff's residence and its real market value for the 2002-03 tax year.

The property is identified in the Yamhill County tax records as Account 517552. No petition was earlier submitted to the county board of property tax appeals. The first, and only, complaint was filed with the Magistrate Division on December 15, 2003.

To contest assessed values, taxpayers typically must appeal to their county board of property tax appeals by December 31 of each tax year. ORS 309.100.¹ Plaintiff admits he did not timely appeal the year at issue.

The legislature has given the court limited authority to consider appeals when the party did not first appeal to the board of property tax appeals. ORS 305.288(1) states:

"The tax court shall order a change or correction * * * to the assessment and tax roll for the current tax year or for either of the two tax years immediately preceding the current tax year * * * if all of the following conditions exist:

"(a) For the tax year to which the change or correction is applicable, the property was or is used primarily as a dwelling * * * .

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

“(b) The change or correction requested is a change in value for the property for the tax year and it is asserted in the request and determined by the tax court that **the difference between the real market value of the property for the tax year and the real market value on the assessment and tax roll for the tax year is equal to or greater than 20 percent.**”

(Emphasis added.)

Plaintiff contends the value should be reduced from its \$158,630 current real market value to \$143,760, his purchase price in May 2001. This would be a reduction of only 9.4 percent. Plaintiff does not meet the gross error standard.

Plaintiff has a second opportunity for the court to be able to hear his appeal. ORS 305.288(3) states:

“The tax court may order a change or correction * * * to the assessment or tax roll for the current tax year * * * if, * * * the assessor or taxpayer has no statutory right of appeal remaining and **the tax court determines that good and sufficient cause exists** for the failure by the assessor or taxpayer to pursue the statutory right of appeal.”

(Emphasis added.)

Good and sufficient cause is “an extraordinary circumstance that is beyond the control of the taxpayer.” ORS 305.288(5)(b)(A). Further, 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).

Plaintiff offered no real reason, other than his lack of knowledge of the process, for his failure to timely appeal the 2002-03 assessed value. Consequently, the court cannot reach the 2002-03 tax year under the good and sufficient cause provision.

The parties agree that the real market value for tax year 2002-03 should be \$143,760. Because the home was newly constructed, a reduction in real market value

would also have an effect on the property's maximum assessed value, lowering it by \$14,551 to \$109,148. (See Def's Answer) Unfortunately, it is not within the authority of the court to order such a reduction.² Now, therefore,

IT IS ADJUDGED that this matter be dismissed.

Dated this ____ day of February, 2004.

SALLY L. KIMSEY
MAGISTRATE

THIS DOCUMENT IS FINAL AND MAY NOT BE APPEALED. ORS 305.514.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON FEBRUARY 11, 2004. THE COURT FILED THIS DOCUMENT ON FEBRUARY 11, 2004.

² It is, however, within the authority of the Department of Revenue to order a reduction. See ORS 306.115(3). Plaintiff may be able to obtain relief through a supervisory appeal to the department, particularly because the parties appear to agree to the value of the residence. (See Def's Answer.) An administrative rule interpreting ORS 306.115(5) states that "[t]he department will consider substantive issue in the petition * * * when: * * * [t]he parties to the petition agree to facts indicating likely error [on the tax roll]." OAR 150-306.115 (4)(b)(A). The court encourages Plaintiff to pursue this potential avenue of relief.