

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

KEN FULKERSON, )  
 )  
 Plaintiff, ) TC-MD 031130C  
 )  
 v. )  
 )  
 WASHINGTON COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

This matter is before the court to determine whether Plaintiff has established “good and sufficient cause” for not pursuing the statutory right of appeal in 2001.

I. STATEMENT OF FACTS

The appeal involves land Plaintiff purchased in Forest Grove as a bare lot in June 2001 for \$50,000. The parties agree that the purchase price is a good indication of market value as of January 1, 2001, which is the assessment date for the tax year at issue (2001-02). At the time of purchase, the property was overgrown with brush and littered with trash and other debris. Plaintiff spent the next few months cleaning up the property, obtaining permits for a home, and moving a manufactured home onto the property. Plaintiff received a property tax statement sometime in October 2001 but did not pay much attention to that statement because the escrow company involved in the purchase of the property had collected funds and assumed responsibility for payment of the taxes. More recently a property near the subject was offered for sale, and Plaintiff discovered that the taxes on that property were approximately \$300 less than his taxes. Plaintiff testified that the two properties are very similar both in terms of the land and the improvements.

This appeal was filed December 17, 2003, and the court received a written stipulation signed by the parties January 22, 2004, by which the parties agreed to

reduce the value of the subject property for the 2001-02 tax year to the \$50,000 purchase price. The appeal is governed by the provisions of ORS 305.288<sup>1</sup> because it involves a request for relief for a prior tax year. The court issued an order January 30, 2004, advising the parties that it could not accept the Stipulated Agreement unless Plaintiff could establish good and sufficient cause for the lack of an appeal to the Washington County Board of Property Tax Appeals (Board) in 2001. Accordingly, a hearing was set for March 31, 2004, to receive sworn testimony on that issue.

## II. ANALYSIS

The question for the court is whether Plaintiff has a good reason for not filing a petition with the Board in 2001. The statutory term is “good and sufficient cause.” The statute reads:

“The tax court may order a change or correction applicable to a separate assessment of property \* \* \* 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). The statute defines good and sufficient cause as “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.” ORS 305.288(5)(A).

The facts show that Plaintiff was not concerned with the value of the property for the 2001-02 tax year on the assessment and tax rolls until he discovered in 2003 that his taxes were several hundred dollars higher than his neighbor’s taxes. Plaintiff made inquiries and discovered that it was too late to file a petition with the county Board for the 2001-02 tax year, which was the year he bought the land for several thousand

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<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.  
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dollars less than the roll value. However, Plaintiff was advised it was still possible to file an appeal with the Tax Court going back to 2001-02. This appeal followed. Plaintiff acknowledges that he did not pay much attention to the tax statement when it arrived in October 2001 because the taxes were being paid by the escrow company. Thus, in 2001 Plaintiff was not aware that the market value might be too high and ignored the information provided by the assessor detailing the county's opinion of the value for that year.

The statutory definition of good and sufficient cause has two parts, one of which is set forth above and sets out the types of situations that must be present for the court to conclude that a taxpayer has good and sufficient cause. The second part of the definition, set forth immediately below, provides a list of definitional exclusions. Good and sufficient cause "does not include inadvertence, oversight, [or] lack of knowledge." ORS 305.288(5)(B). Plaintiff's situation falls within the exclusion. Plaintiff chose not to scrutinize the tax statement he received in 2001 to ascertain whether he felt the market value was correct. Plaintiff had just bought the property for several thousand dollars less than the roll value of \$54,630 (land) and therefore had the same information available to him in 2001 as was presented to the court in 2003. Plaintiff's delay in appealing was due to inadvertence, oversight, or lack of knowledge, and is specifically excluded from the statutory definition of good and sufficient cause.

### III. CONCLUSION

The court cannot accept the parties' Stipulated Agreement for the 2001-02 tax year because the relief requested involves a prior tax year, and Plaintiff has not

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satisfied the statutory requirement of good and sufficient cause for failing to pursue an appeal in 2001. Now, therefore,

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

Dated this \_\_\_\_\_ day of April 2004.

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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 APRIL 13, 2004. THE COURT FILED THIS DOCUMENT ON APRIL 13, 2004.**