

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

CHILDSWORK LEARNING CENTER, INC.,)	
)	
Plaintiff,)	TC-MD 031132E
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals Defendant's denial of its application for a property tax exemption for the 2003-04 tax year. Case management conferences were held February 17 and March 9, 2004. The parties agreed to submit the case to the court on legal memoranda. The case is now ready for decision.

I. STATEMENT OF FACTS

Plaintiff is a nonprofit organization that has operated in Portland for approximately 20 years. The purpose of Plaintiff's organization is to provide child care and early childhood education to a "diverse population, including families with special needs, Adult and Family Services' clients, and families on scholarships." (Ptf's Ltr at 1, Apr 8, 2004.) Plaintiff currently leases property from the Jordan Family Limited Partnership (Lessor).¹ The subject property has been tax exempt for 25 years because it was previously leased by Loaves and Fishes, a nonprofit organization. Loaves and Fishes' lease terminated June 30, 2003.

On July 1, 2003, Plaintiff and Lessor entered into an agreement entitled "Signed Intent between Childswork Learning Center, Inc. and Jordan Family Limited Partnership to lease the property located at 6125 S.E. 52nd Avenue, Portland, Oregon." (Ptf's Compl at 6.) According to the document, Plaintiff and Lessor "enter[ed] into an agreement to begin negotiations on the

¹ The property is identified in Defendant's records as Account R208768.

lease of the property." (*Id.*) Plaintiff claims it was prohibited from signing its lease in June 2003 because of Lessor's existing lease with Loaves and Fishes.

Plaintiff and Lessor entered into a lease for the subject property on October 15, 2003. On October 20, 2003, Plaintiff submitted an application for a property tax exemption for the 2003-04 tax year. Defendant denied Plaintiff's application because Plaintiff entered into its lease after June 30, 2003.

II. ANALYSIS

ORS 307.112² provides a property tax exemption for taxable property that is leased to a tax-exempt organization. It provides, in pertinent part:

"(1) Real or personal property of a taxable owner held under lease * * * by an * * * organization * * * granted exemption or the right to claim exemption for any of its property under ORS 307.090, 307.130, 307.136, 307.140, 307.145, 307.147 or 456.225, is exempt from taxation if:

"(a) The property is used by the lessee in the manner, if any, required by law for the exemption of property owned or being purchased by it; and

"(b) It is expressly agreed within the lease * * * agreement that the rent payable by the * * * organization * * * has been established to reflect the savings below market rent resulting from the exemption from taxation.

"(2) The lessee shall file a claim for exemption with the county assessor * * *

"* * * * *

"(4)(a) The claim shall be filed on or before April 1, except as follows:

"(A) If the lease * * * agreement is entered into after **March 1 but not later than June 30**, the claim shall be filed within 30 days after the date the lease * * * agreement is entered into if exemption is claimed for that year; or

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² All references to the Oregon Revised Statutes (ORS) are to 2001.
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"(B) Notwithstanding that no hardship grounds exist, if a late filing fee is determined, paid and distributed in the manner provided in ORS 307.162(2), the claim shall be filed on or before December 31 of the tax year for which exemption is first claimed."

ORS 307.112 (emphasis added).

ORS 307.112(4)(a) requires a lessee to file its application by April 1, with one exception. If the lease is entered into after March 1 and before June 30, the lessee may file its application within 30 days of when the lease is entered into. The statute is clear, however, that the lease must be entered into "not later than June 30." *Id.* at (4)(a)(A).

Plaintiff entered into its lease on October 15, 2003, thereby missing the statutory deadline of "not later than June 30." Plaintiff argues that July 1, 2003, is the date that should be considered because it signed an "agreement to begin negotiation on the lease" on that date. (Ptf's Compl at 6.) That agreement, however, is not a lease. It merely documents that Plaintiff and Lessor intended to begin negotiations regarding a lease. Furthermore, even if that document is considered a lease, its execution date of July 1, 2003, misses the statutory deadline of "not later than June 30."

Plaintiff claims that it is permitted an extension under ORS 307.112(4)(a)(B). Plaintiff's reliance on that extension, however, is misplaced. ORS 307.112(4)(a)(B) extends only the **application** date to December 31. It does not extend the date by which the lease must be entered into. Plaintiff's failure to enter into its lease by June 30, 2003, is the reason for its failure to acquire the exemption for the 2003-04 tax year.

Tax exempt organizations provide a benefit to society, but "their encounters with the property tax system have often been difficult and have produced seemingly harsh results." *Erickson v. Dept. of Rev.*, OTC-RD No 4587, WL 286962, at *2 (Feb 11, 2004). Had Plaintiff entered into its lease by June 30, there is little doubt the property would have received the exemption; assuming the application time lines were met. Unfortunately, Plaintiff did not enter

into its lease until after June 30. The statute is clear that a valid lease must be in place by June 30. Notwithstanding Plaintiff's charitable work and good intentions, the court cannot overlook the statutory requirements. Plaintiff's appeal must be denied.

III. CONCLUSION

Plaintiff's application for exemption was properly denied because Plaintiff failed to enter into its lease before the statutory deadline of June 30. The extension relied upon by Plaintiff in ORS 307.112(4)(a)(B) is inapplicable because it extends only the date by which the application must be filed, not the date by which the lease must be entered into. Now, therefore,

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

Dated this _____ day of July 2004.

COYREEN R. WEIDNER
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 COYREEN R. WEIDNER JULY 8, 2004. THE COURT FILED THIS DOCUMENT JULY 8, 2004.