

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JEREMY T. KRAUEL and KELLY A. FOX,)	
)	
Plaintiffs,)	TC-MD 031171F
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s motion to dismiss, filed with its Answer February 10, 2004, requesting the Complaint be dismissed.

Plaintiffs appeal the real market value of their single family residence for tax years 1999-2000, 2000-2001, 2001-02, 2002-03, and 2003-04. Plaintiffs purchased the property in June 2000. After Plaintiffs’ purchase an appraiser viewed the property. As a result of the appraiser’s visit, Defendant determined the basement was finished and a bathroom added to the house since Plaintiffs’ purchase. Accordingly, Defendant added \$34,390 in real market value to the account. Plaintiffs, in turn, state that although they may have updated the already finished basement, both the finished basement and the bathroom existed when they purchased the home.

Plaintiff filed no petitions to the county board of property tax appeals (the board) for any of the years at issue. Their Complaint, filed with the Magistrate Division, was postmarked December 31, 2003.

To contest assessed values, taxpayers typically must appeal to the board by December 31 of each tax year. ORS 309.100.¹ Plaintiffs admit they did not timely appeal in any of the years at issue.

¹ All references to the Oregon Revised Statutes are to 2003.

The legislature has given the court limited authority to consider appeals going back two tax years. ORS 305.288 states:

“(1) 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 * * *.

“(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.

“ * * * * *

“(3) The tax court may order a change or correction applicable to a separate assessment of property to the assessment or tax roll 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 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.

“ * * * * *

“(5) For purposes of this section:

“ * * * * *

“(b) ‘Good and sufficient cause’:

“(A) Means 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; and

“(B) Does 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.”

Here, taxpayers are challenging years beyond the reach of ORS 305.288. The court finds tax years 1999-2000 through 2000-2001 are dismissed because they are beyond the reach of the statute.

Plaintiffs' concern is that the maximum assessed value is overstated because exception value was improperly added to the roll. Plaintiffs' Complaint did not address real market value or whether they believed the real market value of the subject property was overvalued. However, it is clear to the court that even if there is an error in real market value, it does not meet the gross error standard of 20 percent set forth in ORS 305.288(1)(b).

The court held a status conference to discuss whether Plaintiffs had good and sufficient cause for failing to timely appeal to the board for any of the years at issue. Plaintiff Fox stated Plaintiffs did not appeal because she had a new job, difficulties with a child, and Plaintiff Krauel was often out of town. Defendant viewed Plaintiffs' circumstances as typical of many families and something less than extraordinary. Plaintiffs agreed to submit a letter with a timeline detailing the circumstances. Plaintiffs did not submit the letter.

In order to show good and sufficient cause, Plaintiffs would need to demonstrate their extraordinary circumstances that prevented them from timely appealing for each of the years at issue. Without more, the court concludes that Plaintiffs' circumstances were no different than many other people with busy lives. Plaintiffs did not demonstrate good and sufficient cause for not appealing. Now, therefore,

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IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this _____ day of October 2004.

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 OCTOBER 27, 2004. THE COURT FILED THIS DOCUMENT OCTOBER 27, 2004.