

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

JAY C. JOHNSON ETUX,)	
)	
Plaintiff,)	TC-MD 040056C
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND GENERAL JUDGMENT

Plaintiff appealed the value of certain real property for tax year 2003-04.

Defendant in its Answer requested that "Plaintiff show good and sufficient cause as to why this was not appealed to the Board of Property Tax Appeals," and further requested that the value be sustained.

The matter was set for an initial case management conference on April 20, 2004. Plaintiff appeared on his own behalf. John Wurst appeared on behalf of Defendant. Plaintiff acknowledged that he had not filed a petition with the Deschutes County Board of Property Tax Appeals (the board). Accordingly, Plaintiff was placed under oath to testify as to the reason for the failure to petition the board before coming to the court. The court's inquiry was based on the provisions of ORS 305.288(3).¹ That statute allows the court to consider certain appeals in situations like the present, where the taxpayer appeals directly to the court.

The first step in any property valuation appeal is for the taxpayer to file a timely petition with the board. See ORS 309.026; ORS 309.100. The board's order may then

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¹ All references to the Oregon Revised Statutes (ORS) are to 2003.
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be appealed to the Magistrate Division of the Oregon Tax Court. ORS 309.110(7). An appeal to the Tax Court from the board's order must be timely filed in accordance with ORS 305.280(4) (requiring that the appeal be filed within 30 days of the mailing date of the board order). When that statutory right of appeal is not properly followed, a taxpayer may still appeal to the Tax Court, but additional requirements are imposed.

The applicable statute is ORS 305.288, and subsection (3) provides:

"The tax court may order a change or correction applicable to a separate assessment of property * * * 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."²

Under that statute, the court is permitted to order a change in value if the taxpayer demonstrates "good and sufficient cause" for not petitioning the board. The statute defines good and sufficient cause as "an extraordinary circumstance that is beyond the control of the taxpayer." ORS 305.288(5)(b)(A). Plaintiff in this case admits that he has no reason for failing to appeal to the board. Plaintiff received the tax statement in the fall of 2003. The tax statement explains the appeal process. Plaintiff has the property listed with a local broker and apparently began inquiring as to the value used for property tax purposes after speaking with that broker in January 2004. The deadline for petitioning the board was December 31, 2003. That date passed before Plaintiff initiated his inquiry. Plaintiff was correctly instructed that his only course of action was to proceed in the Tax Court. However, as explained above, the case

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² The court also has the authority under subsection (1) of ORS 305.288 to order a change in value when it finds the value is off by at least 20 percent. However, the 20-percent error provision does not apply to unimproved land and in this case Plaintiff is appealing bare land.

cannot move forward absent a statutorily valid reason for Plaintiff's failure to file a petition with the board. Plaintiff acknowledges that he has no such reason. Now, therefore,

IT IS ADJUDGED that Plaintiff's appeal is dismissed.

Dated this _____ day of April 2004.

DAN ROBINSON
MAGISTRATE

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

THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON APRIL 30, 2004. THE COURT FILED THIS DOCUMENT ON APRIL 30, 2004.