

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

NICHOLAS KOMPANIET)	
and MARIA K. KOMPANIET)	
)	
Plaintiff,)	TC-MD 040823A
)	
v.)	
)	
JOSEPHINE COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs appealed the denial of special assessment as Small Tract Forestland on property identified as Account R325787. A trial was held July 27, 2004. Kompaniet appeared and made his presentation. Michael Schneyder represented himself.

I. STATEMENT OF FACTS

Plaintiffs needed to apply, on or before April 1, 2004, for their property to be specially assessed. Plaintiffs did not mail the application until March 28 or 29, 2004. Kompaniet explained that they received the application to change the property's assessment from woodlot resource to small tract, but thought the correspondence related to a change of address with the assessor, and so did not give the mail the attention it deserved. Plaintiffs meant to hand deliver the application, as they knew the application deadline was close, but Mr. Kimpaniet's health problems interfered.

Defendant explained the application was received by his office marked with a postmark date of April 5, 2004.

II. ANALYSIS

Application dates are important. Taxpayers need to submit their applications on time so the assessor can complete the roll in a timely manner. Moreover, the assessor has no discretion in the treatment of applications. The postmark controls. However, there is an option.

The Department of Revenue has the ability, where the property would have been exempt or specially assessed had a timely application been filed, to permit a late filing to qualify the property. The power is set out in ORS 307.475¹ and its accompanying administrative rule, OAR 150-307.475(1).

That is Plaintiffs' only option. The application should have been filed on time, and was not. Although the court does have the power to order relief in many matters of special assessment, the ability to say that the taxpayer had a reason that excuses the failure to make a timely filing is with another entity.

III. CONCLUSION

If Plaintiffs wish to obtain the relief they desire, their only option is to file, before December 15, their request with the Department of Revenue. Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal is dismissed.

Dated this _____ day of October 2004.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON OCTOBER 25, 2004 . THE COURT FILED THIS DOCUMENT ON OCTOBER 25, 2004.

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.

¹All references to the Oregon Revised Statutes (ORS) are to 2003.
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