

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax Exemption

JULIANNE G. MAGUIRE TRUST,)	
JULIANNE G. MAGUIRE, TRUSTEE,)	
)	
Plaintiff,)	TC-MD 040829C
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals Defendant’s denial of a partial property tax exemption for the 2004-05 tax year. Julianne Maguire (Maguire) appeared at the October 4, 2004, case management hearing. Tana West appeared for Defendant. Maguire was advised by the court to file a petition with the Oregon Department of Revenue (department) because the court lacks the authority to consider the appeal.

I. STATEMENT OF FACTS

Maguire and her late husband, Frank C. Maguire, had received the veteran’s property tax exemption in Clatsop County since 1992. Maguire acquired property in Deschutes County on April 5, 2004. The deed was recorded on April 6, 2004. Defendant received Maguire’s veteran’s property tax exemption application on May 18, 2004. Defendant denied the application as untimely and sent notice of that decision on May 18, 2004. The letter advised Maguire to appeal to the department if she disagreed with the county’s decision. Maguire appealed to this court.

II. ANALYSIS

Oregon allows a partial property tax exemption to the unmarried surviving spouses of certain disabled war veterans. ORS 307.250.¹ An annual application must be filed with the county assessor. ORS 307.260. The standard deadline is April 1 of the assessment year.

¹ All references to the Oregon Revised Statutes (ORS) are to 2003.
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ORS 307.260(1)(a). However, when a qualifying taxpayer acquires property “after March 1 but prior to July 1 the claim for that year shall be filed within 30 days after the date of acquisition.”

Id. Maguire acquired the property for which she seeks exemption on April 6, 2004.

Accordingly, she had 30 days in which to submit her exemption application. Maguire missed the 30-day window. Maguire asserts that an employee in the assessor’s office misinformed her about the application deadline and that she understood she had until July 2004 to file. Moreover, Maguire lost valuable time caring for her ill sister who was unexpectedly hospitalized. Maguire left town to be with her sister and did not return until around May 15, 2004. Maguire filed an exemption application on May 18, 2004.

Maguire asks the court to grant the exemption. As explained to the parties at the October 4, 2004, telephonic proceeding, the court does not have the statutory authority to grant the requested relief. Maguire was late in applying and, regrettably, the court cannot excuse that infirmity. Maguire can file an application with the director of the department by December 15, 2004, and request relief on the grounds of “hardship.” The applicable statute is ORS 307.475, and it gives the director the discretion to recommend the partial exemption be granted if she finds that Maguire otherwise qualifies and that the application was late because of hardship.

Upon learning that the court did not have the authority to grant the relief, Maguire asked that the \$25 filing fee be returned to her. Maguire insists that when she telephoned the assessor’s office after receiving the denial letter, “Michelle” informed her that the initial misinformation about the filing deadline was given erroneously due to an in-house error, that Michelle knew to whom Maguire originally spoke, and that the matter had been brought to the attention of Michelle’s supervisor. Maguire further indicates that Michelle told her that the assessor no longer had the authority to allow the exemption and her only option was to bring the matter to the

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court. Maguire stated that she telephoned the court, and after speaking with a court employee, had the impression that she was in the right forum. This appeal ensued.

A complaint filed with the magistrate division of the Tax Court must be accompanied by a \$25 filing fee. ORS 305.490(1)(b). Maguire filed her complaint with the court in spite of the written instructions in the assessor's letter of denial advising her that she could file a petition with the department. The court appreciates that this was a particularly stressful time for Maguire given that she had recently moved, and her sister had been hospitalized with illness. One reason appeal rights are put in writing is to avoid confusion about those rights. As for the erroneous information Maguire insists she was given regarding the deadline for filing the application with the assessor, the court is not sufficiently persuaded so as to estop the county from asserting the untimeliness of the application, especially in light of the fact that Maguire has the statutory right to file a hardship petition with the department based on the illness of her sister.

III. CONCLUSION

After carefully reviewing the matter, the court concludes that Maguire's request for a partial exemption as the surviving spouse of the disabled war veteran must be denied because the application was not filed within 30 days of the date she acquired the subject property. Defendant was correct in denying the application. The court cannot disturb that decision. Additionally, Maguire's request for a refund of the \$25 filing fee is denied. Now, therefore,

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

Dated this _____ day of October 2004.

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 OCTOBER 21, 2004. THE COURT FILED AND ENTERED THIS DOCUMENT OCTOBER 21, 2004.

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