

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

619 EAST 10TH, LLC,)
)
 Plaintiff,) TC-MD 041099D
)
 v.)
)
 YAMHILL COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on its own motion to dismiss the above-entitled appeal. The court discussed the motion with the parties during the case management conference held on February 14, 2005. Nancy A. Taylor (Taylor), President, appeared on behalf of Plaintiff. Nikki Orlaineta, Appraiser, appeared on behalf of Defendant.

During the conference, the court explained that the Oregon Legislature has developed an appeals procedure for taxpayers to follow when challenging the values assigned to their property. In most cases, taxpayers are required to appeal to the county board of property tax appeals (BOPTA). Taxpayers are required to file appeals with BOPTA no later than December 31 of the current tax year. ORS 309.100(2)¹. For tax year 2003-04, Plaintiff did not appeal to BOPTA.

The legislature recognized that there would be certain situations where a taxpayer would not make a timely appeal to BOPTA. As a result, the legislature granted the court authority to review untimely appeals and reduce the value if there is either: (1) an error in value of at least 20 percent, or (2) a good reason for the taxpayer's failure to appeal to BOPTA. ORS 305.288.

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¹ References to the Oregon Revised Statutes (ORS) are to year 2003 unless otherwise noted.

The parties agree that the real market value of Plaintiff's property for tax year 2003-04 should be \$310,000. The real market value on the tax roll is \$350,068. The difference between the values is not 20 percent.

In discussing why Plaintiff failed to file an appeal with BOPTA, Taylor testified that when she received the property tax statement for 2003-04, she noticed the real market value had substantially increased over the prior year. After reviewing the statement, she concluded the county must have done a reappraisal of her property. She decided not to appeal the value. Unfortunately, Plaintiff's reason for failing to appeal does not meet the statutory "good and sufficient cause" exception found in ORS 305.288(3).

The court finds that the difference in value does not meet the 20 percent requirement of ORS 305.288. Further, the court finds that Plaintiff lacks good and sufficient cause for failing to timely pursue its remedy with BOPTA. Therefore, the court finds it lacks authority to order relief under the provisions of ORS 305.288. Now, therefore,

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

Dated this ____ day of February 2005.

JILL A. TANNER
PRESIDING MAGISTRATE

THIS DOCUMENT WAS SIGNED BY PRESIDING MAGISTRATE JILL A. TANNER ON FEBRUARY 28, 2005. THE COURT FILED THIS DOCUMENT ON FEBRUARY 28, 2005.

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.