

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

FERNRIDGE FAITH CENTER, )  
 )  
 Plaintiff, ) TC-MD 041100E  
 )  
 v. )  
 )  
 LANE COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

Plaintiff appeals Defendant's failure to act on Plaintiff's application for a 2003-04 property tax exemption. A telephone trial in the matter was held February 1, 2005.<sup>1</sup> Jeri M. Kaufman (Kaufman), Bookkeeper/Administrative Assistant, appeared on behalf of Plaintiff. Joyce Kehoe (Kehoe) appeared on behalf of Defendant.

I. STATEMENT OF FACTS

Plaintiff is a religious organization qualifying for property tax exemption. In years past, Plaintiff rented property for its use and submitted applications for exemption as an exempt lessee. Tax year 2003-04 was the first year Plaintiff owned the property it was using for its religious purposes.<sup>2</sup> For reasons not clear to the court, Plaintiff failed to submit a timely application for exemption. After receiving its tax statement in the fall of 2004, Plaintiff realized it had not filed an application for exemption. As a result, it decided to submit a late application and pay the required late application fee. *See* ORS 307.162(2).<sup>3</sup> Kaufman testified that she walked into Defendant's offices and gave the application and fee to the clerk at the front desk.

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<sup>1</sup> The court converted the proceeding from a case management conference into a trial after both parties stated they were prepared to present their positions at that time.

<sup>2</sup> The property is identified in Defendant's records as Account 1493608.

<sup>3</sup> All references to the Oregon Revised Statutes (ORS) are to 2003.

According to Kaufman, she requested a receipt for the fee but was advised the clerk could not receipt the fee unless Defendant granted the application. She was further advised that the canceled check would be her receipt. Accepting the clerk's response, Kaufman left assuming Defendant would grant the application.

Defendant, however, has no record of receiving the application. As a result, in May 2004, Defendant mailed Plaintiff a notice that it was delinquent on its 2003-04 property taxes. Tax statements and notices are mailed to the International Church of the Foursquare in California, of which Plaintiff is a branch. Within a couple of months, Plaintiff received notice from the head church that taxes were owing on the subject property. In July 2004, Kaufman contacted Kehoe to inquire about the application. It was then that Kaufman discovered Defendant had no record of receiving the application. Kaufman then reviewed Plaintiff's books and discovered the check she had written for the late application fee had never been cashed. Kaufman testified that bank reconciliations are done on the computer and that, although she does post the checks that have cleared, she does not review statements to learn which checks remain outstanding. She admits that, had she done so, she would have discovered the mistake sooner.

After discovering Plaintiff was delinquent on the property's taxes, Kaufman contacted Plaintiff's pastor and its governing council to discuss the matter. She was advised to consult an attorney on the matter. At that time, Plaintiff's primary concern was qualifying the property for the 2004-05 tax year. Because they were again late with their application, Kaufman walked into Defendant's offices in early November 2004 and submitted the 2004-05 application with the late fee. Kaufman testified that, once again, she was denied a receipt. With experience behind her, Kaufman requested that her copy of the application be stamped with a "received" mark and that Kehoe contact her upon receipt of the application. Defendant ultimately granted the application.

Plaintiff then decided to appeal the 2003-04 tax year to this court. On November 15, 2004, Plaintiff mailed its Complaint to this court. Plaintiff requests that it be allowed the exemption for the 2003-04 tax year based on the application filed in December 2003. Kaufman testified that, when she submitted the application, the clerk at Defendant's office appeared uncertain as to what she should do with the application and opted to simply set it aside. It is Plaintiff's position the application became lost in the paperwork. Defendant claims it has no record of the application and, with no application on file, no exemption is warranted.

## II. ANALYSIS

Plaintiff claims that it filed its application for exemption in December 2003. The head church became aware taxes were owing on the property in May 2004 and notified Plaintiff of the problem by July 2004. Plaintiff filed its appeal with the court November 15, 2004.

Before determining whether Defendant should be deemed to have received Plaintiff's application, the court must first review whether Plaintiff has appealed the issue to the court within a timely manner. ORS 305.275(1) sets forth who may file an appeal with this court. It states, in pertinent part:

“(1) Any person may appeal under this subsection to the magistrate division of the Oregon Tax Court as provided in ORS 305.280 and 305.560, if all of the following criteria are met:

“(a) The person must be aggrieved by and affected by an act, *omission*, order or determination of:

“\* \* \* \* \*

“(C) A county or assessor or other county official \* \* \* [.]”

ORS 305.275 (emphasis added).

ORS 305.280(1) sets forth time lines for when a taxpayer must file its appeal. The statute provides that “an appeal under ORS 305.275(1) or (2) shall be filed within 90 days after the act,

*omission*, order or determination becomes actually known to the person \* \* \* [.]”

ORS 304.280(1) (emphasis added). In the subject appeal, Plaintiff is appealing Defendant’s failure to act, *i.e.*, its failure to rule on the application for exemption. Therefore, Plaintiff is appealing Defendant’s omission. ORS 305.280(1) requires that a taxpayer file an appeal within 90 days of when the omission becomes “actually known” to it. *Id.* In this case, it is not clear exactly when Plaintiff became aware of the problem. It could be argued that when the head church in California received the delinquency notice in May, it had notice of the omission. At a minimum, the local church had knowledge in July because Kaufman contacted Kehoe in July to discuss the delinquency. Assuming, without deciding, that July is the appropriate starting point in the analysis, Plaintiff had until some point in October to file its appeal. As noted, Plaintiff did not file its appeal until November 15, 2004. As a result, Plaintiff has not timely pursued its remedy with the court.

The court realizes the requirement to file its appeal within a specific time frame may seem unduly harsh to Plaintiff. Particularly given that Plaintiff is appealing an omission and, as a consequence, did not receive any notice of appeal rights. However, the legislature set forth a statutory framework for appeals of property tax matters. The intent is to require appeals be made in a timely manner to allow for certainty of tax rolls at some point. Plaintiff missed the time line allowed for an appeal in this matter, and the court is without authority to create judicial exceptions to the statutory time line.

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### III. CONCLUSION

It is the conclusion of the court that Plaintiff failed to file its appeal within the time frame allowed by statute. As a result, the court finds Plaintiff's appeal must be denied.<sup>4</sup> Now, therefore,

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

Dated this \_\_\_\_\_ day of February 2005.

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COYREEN R. WEIDNER  
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 COYREEN R. WEIDNER FEBRUARY 17, 2005. THE COURT FILED THIS DOCUMENT FEBRUARY 17, 2005.**

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<sup>4</sup> The court's ruling in this matter does not preclude Defendant from considering the application should it be recovered in the future.