

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

H. KIM WOOD,)	
)	
Plaintiff,)	TC-MD 050135A
)	
v.)	
)	
BENTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appealed Defendant’s correction of a clerical error for the 2002-03 and 2003-04 tax years on property identified as Account 031231. H. Kim Wood presented Plaintiff’s case. Defendant participated through Toni Blessing, of its staff.

I. STATEMENT OF FACTS

The facts of this appeal are clear. A segregation occurred as to this account. In the process, Defendant made an error that resulted in the underassessment of Plaintiff’s property. When Plaintiff received his tax statement for the 2002-03 tax year, he went to Defendant to inquire to what had happened. Defendant dismissed Plaintiff’s inquiry with the assurance that there was no error, and that his liability was as set out in the tax statement.

After this assurance, and seeing that the tax statement for the 2004-05 tax year was along the same lines as the previous one, Plaintiff decided that his property tax really was that low. That was especially good news for Plaintiff. He had retired. His wife, as a result of a stroke, can neither talk nor walk.

In December 2004, Defendant discovered that it had, in fact, made an error in the 2002-03 and 2003-04 tax statements. Defendant corrected the account, and sent out notices seeking respective tax increases of \$2,428.33 and \$2,496.46. Plaintiff makes the point that it is inequitable to seek such sums now due to the error that he had attempted to correct years earlier,

especially when he has no resources to pay. Using his experience as a businessman as a guide, Plaintiff makes the point that Defendant has to take a greater degree of responsibility.

II. ANALYSIS

Plaintiff did everything right. When he saw his 2002-03 tax statement he went to Defendant to ask why the bill was so low. He was assured nothing was wrong. Now, at a time when his resources are low, a large sum of money is demanded from him.

However, there is no alternative open to the court, or for that matter, Defendant. The law is unequivocal. An error in the roll must be corrected. This is because the legislature has decided that, while this situation may be said to be unfair to Plaintiff, it is even more unfair to allow some taxpayers, due to the error of another, to pay less tax than their neighbors.

It is not lost on the court that this is a lot of money to demand from Plaintiff. The legislature has recognized that, and allowed older taxpayers, under some situations, to defer their property taxes. That opportunity is created by ORS 311.666 through 311.701 (2001). However, under the facts of this particular case, the court cannot take into consideration Plaintiff's ability to pay.

III. CONCLUSION

The court understands Plaintiff's situation, and is sympathetic. However, the court cannot set aside the law to give the relief Plaintiff seeks. Now, therefore,

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IT IS THE DECISION OF THIS COURT that this appeal must be denied.

Dated this _____ day of August 2005.

SCOT A. SIDERAS
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 Scot A. Sideras on August 31, 2005 .
The Court filed this document on August 31, 2005.***