

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

SANDY BOTTOMS PARTNERS,)
)
 Plaintiff,) TC-MD 050187A
)
 v.)
)
 LINCOLN COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on its own motion to dismiss the above-entitled appeal for lack of prosecution.

On May 27, 2005, the court issued an Order requiring Plaintiff to notify the court of alternative dates for a case management conference. The Order stated:

“On May 17, 2005, Plaintiffs filed a letter with the court advising the court they were not available for the case management conference set for May 26, 2005. Plaintiffs stated:

‘This is to advise you that I am not available on May 26 for any hearings. I do not feel inclined to make other arrangements with the other party, since the court did not have the courtesy or respect for either party to check either date with us.’

(Ptf’s Ltr, May 17, 2005.)

“In response, court staff sent Plaintiffs a letter informing them of the court’s process for scheduling the initial case management conference in an appeal. In essence, the court advised that, for the first proceeding, the court schedules the proceeding unilaterally without party input. Pursuant to court rule, if a party is unavailable at the date or time of the proceeding, they are required to contact the other party and agree to three alternative dates and times. To assist Plaintiffs, the court provided Plaintiffs with four dates the court was available for proceedings. The court advised Plaintiffs that they needed to contact Defendant’s representative to discuss an alternate date and notify the court by May 26, 2005, of the agreed-upon date. (See Court’s Ltr, May 19, 2005.)

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“The May 26, 2005, deadline set by the court passed without Plaintiffs notifying the court of a new date for the proceeding. Given the state of events, the court is allowing Plaintiffs a one-week extension to contact Defendant’s representative and agree on a new date for the first case management conference.

If Plaintiffs do not provide the court with an agreed-upon date for the first case management conference by June 3, 2005, the case will be dismissed.”

(Order, May 27, 2005) (emphasis in original).¹

The June 3, 2005, deadline has passed with no response from Plaintiff. As a result, the court finds the case should be dismissed for lack of prosecution. Now, therefore,

IT IS THE DECISION OF THE COURT that the above-entitled matter be dismissed.

Dated this _____ day of June 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 June 8, 2005 . The Court filed this document on June 8, 2005.

¹ The court mailed the Order to Plaintiff May 27, 2005. Although the court is only required to mail documents to parties, court staff took the additional step to fax the Order to Plaintiff as well. They attempted to fax the Order at three different times throughout the day. Each time, the facsimile machine rang several times before generating a report advising the court that the system was “busy/no response.”