

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

MICHAEL R. MCINTYRE,)	
)	
Plaintiff,)	TC-MD 050502C
)	
v.)	
)	
WASHINGTON COUNTY ASSESSOR)	
and DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendants.)	DECISION OF DISMISSAL

This matter is before the court on Defendant Department of Revenue’s Motion to Dismiss, included in its Answer filed May 5, 2005. The Department asserts that the appeal is untimely under ORS 311.223(4) because the Complaint was filed more than 90 days after the correction was made. The motion was addressed by the court during the initial case management conference, held by telephone July 6, 2005. For ease of reference, the parties will be referred to as Taxpayer, the County, and the Department.

The appeal involves a clerical error correction made by the County on December 17, 2004, covering tax years 2000-2001 through 2004-05, inclusive. The assessment increased the real market, maximum assessed, and assessed values for all the years at issue. Taxpayer filed a Complaint with this court on April 14, 2005,¹ asserting that the real market value for tax year 2000-2001 should have been \$213,000, and requesting that the additional taxes for all years appealed be waived.² After the appeal was filed, Taxpayer and the County agreed to a reduction in

¹ The Complaint was received in the court, and stamped by court personnel as “filed” on April 15, 2005. The post office cancellation mark on the envelope containing Taxpayer’s Complaint was April 14, 2005 and, under ORS 305.418, a Complaint is deemed to be filed on the date of the post-office cancellation mark.

² The clerical error correction increased the real market value for the 2000-2001 tax year from \$244,210 to \$258,910.

the values for all years at issue, and on June 29, 2005, submitted a signed stipulation setting forth the agreed-upon values.

Clerical error corrections are authorized under ORS 311.205.³ ORS 311.205(3) requires the County to follow the procedure prescribed in ORS 311.216 to ORS 311.232 and further provides that “the provisions therein with respect to appeals shall likewise apply.” Notice of the correction was issued by the County on December 17, 2004. The notice included a statement of appeal rights informing Taxpayer that he had the right to “*appeal* to the Magistrate Division of the Oregon Tax Court within 90 days after the date of this letter.” (Emphasis in original.)

ORS 311.223(4) provides:

“Any person aggrieved by an assessment made under ORS 311.216 to 311.232 may appeal to the tax court within 90 days after the correction of the roll * * *.”

Taxpayer’s 90-day statutory appeal deadline was March 17, 2005. Taxpayer mailed his appeal on April 14, 2005. Taxpayer missed that deadline by approximately one month. Because the appeal was untimely, the court cannot accept the stipulated values agreed to by Taxpayer and the County. The County is precluded from reducing the values because its corrections to the roll became final

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³ All references to the Oregon Revised Statutes (ORS) are to 2003.

after the expiration of the appeal period. Accordingly, the appeal must be dismissed. Now, therefore,

IT IS THE DECISION OF THIS COURT that the Department's motion to dismiss is granted.

Dated this _____ day of August 2005.

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 August 3, 2005. The Court filed and entered this document August 3, 2005.