

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JOHN MURRAY)	
and WHITE MARINE SERVICE,)	
)	
Plaintiffs,)	TC-MD 050742B
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR)	
and DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendants.)	DECISION

This case is now before the court on Defendant Department of Revenue's (DOR) Amended Motion to Dismiss filed September 29, 2005. Opportunity was given for written arguments; the record closed January 5, 2006.

Plaintiffs' Complaint combined several accounts (three) and multiple tax years (five). In each instance, Plaintiffs seek a reduction in the property's real market value (RMV) to zero dollars (\$-0-). The properties are discussed below by property type and account number.

I. REAL PROPERTY ACCOUNT R32346

Plaintiffs withdrew this account during the case management conference held October 31, 2005. Therefore, this account is dismissed as to all tax years listed in the Complaint, 2002-03 through 2006-07, inclusive.

II. PERSONAL PROPERTY ACCOUNT P517352

For tax years 2002-03 and 2003-04, Plaintiffs did not appeal to the Multnomah County Board of Property Tax Appeals (BOPTA) prior to filing this appeal with the Tax Court. They

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have not provided any reasons beyond their control that would have prevented appealing to BOPTA. Plaintiffs have not demonstrated any good and sufficient cause for that inaction for those years. *See* ORS 305.288(3).¹

For 2004-05, Plaintiffs' appeal was from a BOPTA order, but was not filed with the court in a timely manner. Similarly, no valid reason was offered for any delay. *See* ORS 305.280(4).

Plaintiffs also appealed tax year 2005-06 and tax year 2006-07 in their Complaint. During the initial case management conference, the court advised Plaintiffs that those tax years were premature for this forum and that BOPTA petitions should be considered for the future. Plaintiffs then withdrew those years by verbal motion.

III. PERSONAL PROPERTY ACCOUNT P520221

Plaintiffs' claim here is for tax years 2002-03 through 2006-07, inclusive. The claim is not yet ripe for the latter two years, as set forth for the prior account. For the earliest three years, Plaintiffs ask the court to order a zero value (\$-0-) for the property's RMV. That is beyond the court's authority. Those years were fully considered by the DOR's conference section. In all instances, DOR issued Conference Decisions denying hearings on the merits of the valuation claims.

Plaintiffs have not alleged any abuse of discretion by that agency. The court allowed the parties additional time after the initial case management conference to submit written arguments; nothing substantive as to jurisdictional defects has been received from Plaintiffs.

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¹ All references to the Oregon Revised Statutes (ORS) are to 2003.

IV. CONCLUSION

In these appeals, a preponderance of the evidence is required to sustain the burden of proof. That burden of proof shall fall upon the party seeking affirmative relief. *See* ORS 305.427. Plaintiffs have not met that statutory requirement in this record as to any good and sufficient reason for not appealing earlier or as to any abuse of discretion by DOR.

IT IS THE DECISION OF THE COURT that the appeal is dismissed for all accounts and for all tax years under consideration.

Dated this _____ day of June 2006.

JEFFREY S. MATTSON
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 Jeffrey S. Mattson on June 8, 2006. The Court filed and entered this document on June 8, 2006.