

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

AMERITITLE,)	
)	
Plaintiff,)	TC-MD 050784A
)	
v.)	
)	
JACKSON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appealed its payment of property taxes for the 2002-03 and 2003-04 tax years on property identified as Account 1-027169-8. Plaintiff made its points through Cynthia Simpson and Ralph Green, both members of its staff. Defendant’s representative was Theresa Spradling.

I. STATEMENT OF FACTS

Plaintiff is an escrow company. Plaintiff became involved in a transaction regarding the subject property when closing a sale transaction from Raymond L. Roberson and Stefanie F. Schomaker, to Larson Creek Estate Ltd. on March 7, 2005. At the time of the sale, the subject property was encumbered by unpaid property taxes in the amount of \$1,740.94. Plaintiff comes to the court asserting that it investigated the status of the subject property through computer displays provided by Defendant. Plaintiff contends that the information set out in the display of a program known as the Jackson County Front Counter Tax Program (Front Counter), led it to the false conclusion that no tax was owing on the property. Plaintiff’s position is that it should be relieved from the tax it subsequently paid to Defendant on the basis that Defendant did not properly flag, or otherwise alert, users to the status of the account.

Two account numbers were referenced in the sale: Account 1-027169-8 and Account 1-022262-5. Plaintiff submitted exhibits of the various screens for the two accounts. The screen

for Account 1-027169-8 showed its status as “purged.” There is no entry on the screen showing unpaid property taxes. The screen for Account 1-022262-5 shows an associated account, Account 1-027169-8, and that account as “purged.” Account 1-022262-5 was paid through escrow. Because Account 1-027169-8 showed as “purged,” Plaintiff did not investigate that account further. However, Account 1-027169-8 did, in fact, have unpaid taxes owing to Defendant. Plaintiff makes the point that, as Account 1-027169-8 showed “purged,” there was no reason for it to inquire further.

Plaintiff makes the additional argument that it must, as a practical matter, rely on the computer screens as the exclusive source of its information. At the time those events occurred, in July 2005, there were almost 1,500 transactions as to real property closing each month. Accessing information other than via a computer display could not, according to Plaintiff, be done. Plaintiff goes on to reason that it lost the opportunity to pay the unpaid taxes at closing due to its reliance on the information displayed by Defendant and, because the information was incomplete or invalid, Defendant should bear the consequences of its lapse.

For its part, Defendant explained that, although Account 1-027169-8 was “purged” as an active account for the 2004-05 and subsequent tax years, it had a remaining balance for the 2002-03 and 2003-04 tax years. Defendant made the point that, had Plaintiff gone to another screen, the “payoff” screen, it would have seen that there was an unpaid balance on the account. In response, Plaintiff testified that the “payoff” screen is not accessible via the Front Counter interface. Defendant disputed that, explaining that a “purged” designation only means the account is no longer generating a tax, and any outstanding delinquent taxes could be found under the tax report link.

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II. ANALYSIS

Plaintiff's argument is that Defendant's conduct has been such that Plaintiff should be refunded the tax it paid on this account. Although Plaintiff did not specifically describe its legal theory, the basis for this claim is through an estoppel against Defendant. Estoppel is granted in limited circumstances when certain elements have been met. The Oregon Supreme Court held in *Johnson v. Tax Commission*, 248 Or 460, 463-464, 435 P2d 302 (1967), that:

“The policy of efficient and effective tax collection makes the doctrine of rare application. It could only be applied when there is proof positive that the collector has misinformed the individual taxpayer and the taxpayer has a particularly valid reason for relying on the misinformation and that it would be inequitable to a high degree to compel the taxpayer to conform to the true requirement.”

When that criteria is applied to the facts of this case, the point that stops the court short of finding estoppel is the issue of whether Defendant, in fact, misinformed Plaintiff. Although Plaintiff definitively established that the account on which taxes were owing was shown as “purged,” Plaintiff did not demonstrate that Defendant ever represented to Plaintiff that a “purged” account could not still bear a charge for taxes owing. This is the point that is critical for a finding of estoppel. The conclusion, that because an account is purged, therefore no tax is owed, is a conclusion drawn by Plaintiff, rather than a representation by Defendant.

Other cases as to estoppel also require that Plaintiff show a misrepresentation by Defendant. *See Sayles v. Dept. of Rev.*, 13 OTR 324, 328 (1995). *See also Portland Adventist Hospital v. Dept. of Rev.*, 8 OTR 381, 388 (1980); *Cascade Manor, Inc. v. Dept. of Rev.*, 5 OTR 482, 486-87 (1974). The court, especially in light of Defendant's testimony that the information as to outstanding delinquent taxes was always available under the tax report link, cannot find a misrepresentation because the information, although available on one computer screen, was not displayed on others.

III. CONCLUSION

Plaintiff acted on the conclusion that no tax may be due on an account that is “purged.” That belief was not shown to be created by the conduct of Defendant. That fact, in light of *Johnson’s* admonition that estoppel is rarely to be applied, means the court cannot grant Plaintiff the relief it requests. Now, therefore,

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

Dated this _____ day of March 2006.

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 March 13, 2006 .
The Court filed this document on March 13, 2006.***