

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

CHURCH OF THE HARVEST,	)	
	)	
Plaintiff,	)	TC-MD 060017E
	)	
v.	)	
	)	
LANE COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appeals the taxable status of its property for the 2003-04 and 2004-05 tax years, claiming the property should be exempt from taxation. A telephone trial in the matter was held March 2, 2006. Pastor Brian Cuff (Cuff) appeared on behalf of Plaintiff. Joyce Kehoe appeared on behalf of Defendant.

I. STATEMENT OF FACTS

Plaintiff is a nonprofit religious organization. In 1999, Plaintiff began leasing the subject property from the Edgewood Evangelical Church.<sup>1</sup> On June 16, 2003, Plaintiff purchased the property and continued its use of the property. Because the use remained the same, Plaintiff did not consider filing an exemption application for the property. Instead, Plaintiff assumed the exempt status would continue.

American Title Group assisted Plaintiff with its purchase of the property. On the recorded Warranty Deed, American Title Group directed Defendant to send all tax statements to Plaintiff at PO Box 70032, Eugene, OR 97401. That address, however, was an old address and had not been used by Plaintiff since 1999. For the 2003-04 tax year, Defendant, being aware the property had exchanged hands, removed the exempt status of the property and added value to the

---

<sup>1</sup> The property is identified in Defendant's records as Account 0675932.

tax roll. The tax statement for the 2003-04 tax year, however, was sent to the post office box as directed on the Warranty Deed. There is no evidence whether that envelope was returned. Kehoe testified that Defendant's practice is to forward an envelope to a new address when an envelope is returned with a forwarding address. Otherwise, returned envelopes are placed in a bin, with no additional follow up.

For tax years 2004-05 and 2005-06, the same pattern followed with Defendant sending the tax statements to the post office box and Plaintiff not receiving notice of the outstanding liabilities. In December 2005, Plaintiff sought to refinance the subject property. During the course of refinancing, Plaintiff became aware that there were outstanding tax liabilities owing on the property. Cuff immediately contacted Defendant and discovered what had happened. He promptly filed a late application for exemption for the 2005-06 tax year, under the provisions of ORS 307.162(2),<sup>2</sup> which Defendant granted. Defendant denied Plaintiff's claim that the 2003-04 and 2004-05 tax years should similarly be exempt because the exemption application period for those years had passed. Plaintiff appeals Defendant's denial, claiming the property should be exempt for the 2003-04 and 2004-05 tax years.

## II. ANALYSIS

ORS 307.162(1) requires an owner of exempt property to file an application for exemption by April 1. Where, as here, the property is acquired after March 1 but before July 1, the owner must file the application within 30 days of acquiring the property. *See* ORS 307.162(1)(b). Plaintiff claims that, because its use of the property remained unchanged since 1999, the exempt status of the property should continue without the requirement

///

---

<sup>2</sup> All references to the Oregon Revised Statutes (ORS) are to 2003.

of a new application being filed. ORS 307.162(1)(a) sets forth when an application is *not* required. It states:

“(a) If the ownership of all property included in the statement filed with the county assessor for a prior year remains unchanged, a new statement shall not be required.”

ORS 307.162(1)(a).

When the ownership of an exempt property remains unchanged, no application is required. Here, the ownership of the property changed hands. As a result, Plaintiff was required to file an application to continue the exemption on the property. With no application being filed for the two tax years at issue, the property became taxable.

Plaintiff claims that, had it known the property was subject to taxation, it would have quickly remedied the problem, much as it did for the 2005-06 tax year when it discovered the situation in December 2005. Unfortunately, Plaintiff never received the tax statements for the 2003-04 and 2004-05 tax years because Defendant mailed them to an address no longer used by Plaintiff. Because Defendant mailed those statements to the wrong address, Plaintiff claims it should be excused from timely filing the applications. Defendant, however, simply followed the instructions on the Warranty Deed. In fact, Defendant *must* send tax statements to the address provided on the Warranty Deed, unless otherwise notified by Plaintiff.

Plaintiff further contends that Defendant should have investigated the matter to determine Plaintiff’s true and correct address. However, the legislature has placed the burden on taxpayers to notify county assessors of their addresses. Assessors are not expected to track down and

///

///

///

///

locate missing taxpayers. *See* ORS 311.555.<sup>3</sup> Furthermore, taxpayers cannot claim lack of notice when they are pursued for delinquent taxes if they failed to keep the tax collector informed of their correct address. *Id.* The court realizes that American Title Group erred when providing Defendant with the old post office box address. However, American Title Group was acting on behalf of Plaintiff in its action. In *Leigh v. Multnomah County Assessor*, TC-MD No 020923F (Mar 19, 2003), the plaintiff's title company similarly erred when reporting the plaintiff's address on the recorded deed. When pursued for delinquent taxes, the plaintiff claimed it should not be responsible for interest on the delinquent taxes because he never received a tax statement. The court observed that the title company was acting as the agent of the plaintiff when recording the deed and that there was no reason the plaintiff should not be responsible for his agent's error. Similarly, in this appeal, Plaintiff must accept the consequences of its agent's actions.

The court understands Plaintiff's frustration with the system and appreciates the harshness of the result. Here, we have an admittedly exempt taxpayer who made the mistake of assuming the exempt status of the property would continue because the use did not change. Typically, that error would be revealed upon receipt of a tax statement in the fall. That error then could be immediately remedied. Unfortunately, Plaintiff's agent misinformed Defendant of Plaintiff's true address. That mistake led to Plaintiff's failure to receive the two tax statements at issue, thereby foreclosing any opportunity for Plaintiff to timely respond to the matter. The situation is unfortunate and regrettable. However, the court must enforce the law as written and

---

<sup>3</sup> ORS 311.555 states:

"Each person, firm or corporation owning real or personal property within the state \* \* \* shall keep the tax collector of the county where such real or personal property is situate informed of the true and correct address of the person, firm or corporation. No person, firm or corporation who fails to keep the tax collector so informed shall be permitted to plead lack of due notice given by the tax collector in any suit, action or other proceedings commenced or prosecuted under the provisions of ORS 311.545 to 311.565 [related to delinquent taxes] or in any matter growing out of the administration of ORS 311.545 to 311.565."

ORS 307.162 is clear that, when the ownership of an exempt property changes hands, a new application is required. The court cannot except Plaintiff from the mandatory requirement.

### III. CONCLUSION

The court concludes the subject property shall remain taxable for the 2003-04 and 2004-05 tax years because Plaintiff failed to file the necessary applications. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is denied.

Dated this \_\_\_\_\_ day of March 2006.

---

COYREEN R. WEIDNER  
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 Coyreen R. Weidner March 20, 2006. The Court filed and entered this document March 20, 2006.***