

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

HAWKEYE MINING CO., INC.,)
)
 Plaintiff,) TC-MD 060521B
)
 v.)
)
 GRANT COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on Defendant’s Motion to Dismiss, filed June 1, 2006.

A case management conference was held July 31, 2006. Sean Armstrong, Vice President, participated for Plaintiff. Mike Kilpatrick, Legal Counsel, represented Defendant.

Subsequently, written submissions were received. The record closed October 2, 2006.

I. STATEMENT OF FACTS

The subject property is an unimproved parcel of land identified as Account 39468. Plaintiff appealed the values found on the 2005-06 tax statement to the Grant County Board of Property Tax Appeals (BOPTA). The property’s real market value was affirmed at \$22,940 in an official order mailed April 7, 2006. Plaintiff mailed its Complaint to this court on May 9, 2006. Defendant claims the appeal is too late and requests the court dismiss the claim. Defendant also contends that “Grant County should be awarded it’s (sic) costs and expenses incurred in this matter.” (Def’s Mot to Dismiss.)

Plaintiff asserts the envelope containing the board’s order was received April 22, 2006, and that it “clearly responded to the decision fom the Grant County Tax Appeals *within 30 days of receipt* of their decision.” (Ptf’s Resp to Def’s Mot to Dismiss) (emphasis added).

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II. ANALYSIS

ORS 305.280(4)¹ provides in relevant part that an appeal “from an order of a county board of property tax appeals shall be filed within 30 days after the * * * date of mailing of the order.” The open period starts with the mailing date of the BOPTA order, not its late receipt. Plaintiff submitted its Complaint on day 32.

The property that forms the basis of the underlying appeal is unimproved land. Under ORS 305.288(3), the court can consider the appeal and order a change in the value of the property provided Plaintiff establishes “good and sufficient cause” for failing to properly pursue the statutory right of appeal. ORS 305.288(5)(b)(A) defines good and sufficient cause as “an extraordinary circumstance that is beyond the control of the taxpayer, or the taxpayer’s agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the statutory right of appeal[.]” The statute specifically excludes “inadvertence, oversight, [and] lack of knowledge” from the definition of good and sufficient cause. ORS 305.288(5)(b)(B).

For the 2005-06 tax year, there is no evidence submitted that establishes the delay was for anything but oversight or time spent in preparing the appeal. It was certainly not “an extraordinary circumstance that was beyond the control of the taxpayer[.]” ORS 305.288(5)(b)(A). Instead, Plaintiff erroneously assumed the 30-day filing period started with actual receipt of the BOPTA order.

Plaintiff’s Complaint to the Tax Court challenging the value for the 2005-06 tax year was filed beyond the statutory 30-day deadline and is therefore untimely. ORS 305.288 does not assist Plaintiff under these specific facts. Now, therefore,

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¹ References to Oregon Revised Statutes (ORS) are to 2003.

IT IS THE DECISION OF THIS COURT that this matter be dismissed; and

IT IS FURTHER DECIDED that no costs are awarded.

Dated this _____ day of November 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 November 29, 2006. The Court filed and entered this document on November 29, 2006.