

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

EDWARD MARMOLEJO,)	
)	
Plaintiff,)	TC-MD 060610C
)	
v.)	
)	
CLACKAMAS COUNTY ASSESSOR)	
)	
)	
Defendant.)	DECISION

Plaintiff's Complaint requests a reduction in value to \$10,000 for certain real property identified in Defendant's records as Account 949512 (assessor's map number 34E29AB03100). The tax years identified in the Complaint are 2001-02 through 2006-07, inclusive.

A case management conference was held by telephone September 22, 2006. Plaintiff appeared on his own behalf. Defendant was represented by Joe Honl, Appraisal Manager, Clackamas County Assessor's Office. During the early stages of that proceeding, Defendant moved for dismissal of the tax years outside the statutory three-year window provided by ORS 305.288. After some discussion, and with Plaintiff's acquiescence, the court dismissed tax year 2006-07 as premature, and tax years 2001-02 through 2003-04 because those years are too remote under the applicable statute. Following further discussion, the parties agreed to a reduction in the real market value of the subject property for tax year 2004-05 and 2005-06.

The court's Decision sets forth the reason for the dismissal of the years indicated above and the parties' stipulated values.

I. STATEMENT OF FACTS

The appeal involves a small tax lot with a dilapidated structure that the city tagged as a public nuisance in 2006. Plaintiff lives in California and, due to financial difficulties, ceased

paying taxes on the subject property in 2000 or before. The property was deemed a public nuisance because of the condition of the home and a substantial amount of discarded personal property, including aged appliances and furniture, abandoned on the property. Plaintiff sought relief in the form of a reduction in the value of the property to \$10,000 back to tax year 2001-02. Plaintiff did not appeal to the county board of property tax appeals (board).

The parties agreed to a reduction in the real market value of the property to \$40,000 for tax year 2005-06 and \$32,500 for tax or 2004-05. The other years under appeal were dismissed by the court, as explained below.

II. ANALYSIS

The Oregon Legislature established an appeal process that begins with a petition to the local board in accordance with ORS 309.026 and ORS 309.100.¹ The deadline for such petitions each year is December 31. *See* ORS 309.100(2). The board's order may be appealed to the Magistrate Division of the Oregon Tax Court pursuant to ORS 309.110(7) and ORS 305.275(1) and (3).

A taxpayer can appeal directly to the Tax Court, without first petitioning the board, in certain limited situations. The applicable statute is ORS 305.288, which allows the court to order a change in value for the current, and two prior, tax years. The "current" tax year is the tax year that the request for the change is filed with the court. *See* ORS 305.288(5)(a) and 306.115(5). A "tax year" is a 12 month period beginning on July 1. *See* ORS 308.007(1)(c).

A. *Tax year 2006-07*

Plaintiff's appeal was filed August 3, 2006, which makes the current tax year 2006-07. Plaintiff's appeal for the 2006-07 tax year is premature because, under ORS 311.250(2), the tax

¹ Unless noted, references to the Oregon Revised Statutes (ORS) are to 2005.

statement for that year is not mailed until October of the current tax year (2006), and Plaintiff may file a petition with the board “during the period following the date the tax statements are mailed for the current tax year and ending December 31.” ORS 309.100(2).

B. Tax years 2001-02, 2002-03, and 2003-04

Tax years 2001-02 through 2003-04, inclusive, are beyond the three-year window provided in ORS 305.288 because the current year is 2006-07 (see above) and the two prior years are 2005-06 and 2004-05. Those years must, therefore, be dismissed as beyond the reach of the statute.

C. Tax years 2004-05 and 2005-06

ORS 305.288(1) provides that “[t]he tax court shall order a change or correction applicable to a separate assessment of property” for the three-year window discussed above if, as provided in paragraph (a), “the property was or is used primarily as a dwelling (or is vacant)” and under paragraph (b):

“[t]he change or correction requested is a change in value for the property for the tax year and it is asserted in the request and determined by the tax court that the difference between the real market value of the property for the tax year and the real market value on the assessment and tax roll for the tax year is equal to or greater than 20 percent.”

The 20-percent error statute set forth above applies because the subject property is improved with a dwelling, albeit a vacant one. The years under discussion fit within the three-year window provided in the statute. The real market value for the subject property on the tax rolls for tax year 2005-06 is \$94,060. The parties have agreed to a reduction in the real market value to \$40,000. That agreement reflects a reduction considerably greater than 20 percent. The real market value on the tax rolls for the 2004-05 tax year is \$80,477. The

parties have agreed to a reduction in real market value to \$32,500. Here, too, the parties' agreed-upon real market value reflects a difference of considerably more than 20 percent. Accordingly, the real market value for the subject property shall be reduced to \$40,000 for the 2005-06 tax year and \$32,500 for the 2004-05 tax year. The real market values for those tax years shall be attributed solely to the land.

III. CONCLUSION

For the reasons set forth above, court concludes that Plaintiff's appeal for tax years 2001-02, 2002-03, 2003-04, and 2006-07 is dismissed. Defendant shall reduce the real market value of the subject property to \$40,000 for tax year 2005-06 and \$32,500 for tax year 2004-05. As indicated above, those values shall be attributed solely to the land. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant shall adjust the assessment and tax rolls as set forth above.

Dated this _____ day of October 2006.

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 on October 6, 2006. The Court filed and entered this document on October 6, 2006.