

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

OTIS W. WILEY	)	
and ROSARIO R. WILEY,	)	
	)	
Plaintiffs,	)	TC-MD 060620D
	)	
v.	)	
	)	
MULTNOMAH COUNTY ASSESSOR	)	
and DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendants.	)	<b>DECISION OF DISMISSAL</b>

This matter is before the court on Defendant’s (Multnomah County Assessor) Motion to Dismiss, filed August 31, 2006, requesting that the Complaint be dismissed.

A case management conference was held Wednesday, September 20, 2006.

Otis W. Wiley and Rosario R. Wiley appeared on their own behalf. Karla Hartenberger and Ken Collmer, Appraisers, appeared on behalf of Defendant, Multnomah County Assessor. In its Answer, filed August 25, 2006, Defendant, Department of Revenue, requested that it be removed from the appeal and tendered defense to Multnomah County Assessor.

Plaintiffs appeal the 2005-06 real market value and assessed value of their property. However, having failed to file an appeal with the board of property tax appeals (BOPTA), the only way for the court to hear Plaintiffs’ value appeal is for Plaintiffs to meet the statutory requirements of ORS 305.288(3).<sup>1</sup> ORS 305.288(3), which grants the court authority to review untimely appeals when the taxpayer establishes “good and sufficient cause” for not timely pursuing an appeal with BOPTA, provides that:

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<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to year 2003.

“The tax court may order a change or correction \* \* \* to the assessment or tax roll for the current tax year and for either of the two tax years immediately preceding the current tax year if, for the year to which the change or correction is applicable the \* \* \* taxpayer has no statutory right of appeal remaining and the tax court determines that *good and sufficient cause* exists for the failure by the \* \* \* taxpayer to pursue the statutory right of appeal.”

ORS 305.288(3) (emphasis added).

The statute defines “good and sufficient cause” as follows:

“ ‘Good and sufficient cause’:

“(A) Means 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; and

“(B) Does not include inadvertence, oversight, lack of knowledge, hardship or reliance on misleading information provided by any person except an authorized tax official providing the relevant misleading information.”

ORS 305.288(5)(b).

During the case management conference, Otis Wiley (Wiley) stated that he was “unaware” if other properties adjacent to his land parcel with the same restriction “unbuildable,” had a lower real market value and assessed value. Wiley stated that he paid the taxes “without question.” Wiley stated that later he went on the “internet” and found that he was “paying more taxes” than others who, he believes, are similarly situated.

The parties and the court entered into a lengthy discussion of the law, the BOPTA appeal process, and how to provide information about his property to the county for the new tax year, 2006-07. At the end of the discussion, Plaintiffs stated that they plan to seek relief from the county for the 2006-07 tax year. Although they were disappointed that they could not have their *value* appeal for the 2005-06 tax year heard by the court because their “lack of knowledge” does not meet the statutory requirements of “good and sufficient cause,” Plaintiffs acknowledged that the court was granting Defendant’s (Multnomah County Assessor) Motion to Dismiss. ORS 305.288(5)(b).

Because the above-entitled is dismissed, Defendant's (Department of Revenue) request to be removed is moot.

The court finds Plaintiffs lack good and sufficient cause for failing to timely pursue their remedy with BOPTA. Because Plaintiffs failed to meet the statutory requirements of ORS 305.288(3), the court concludes that it lacks authority to order the requested relief. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's (Multnomah County Assessor) motion to dismiss is granted.

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

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JILL A. TANNER  
PRESIDING 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 Presiding Magistrate Jill A. Tanner on September 27, 2006. The Court filed and entered this document on September 27, 2006.***