

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

IVAN KEPTYA and GALINA KEPTYA,	)	
	)	
Plaintiffs,	)	TC-MD 060675C
	)	
v.	)	
	)	
MARION COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff requests a waiver of the interest charged for the late payment of property taxes for the 2005-06 tax year on property identified as Account R323041. The December 13, 2006, case management conference was converted to a trial at the request of the parties. Galina Keptya (Keptya) appeared for Plaintiffs. Defendant was represented by Rex Weisner (Weisner), an employee of the Marion County Assessor's Office.

I. STATEMENT OF FACTS

The appeal involves the property taxes on Plaintiffs' new residence in Woodburn. The street address for the subject property is 484 Muirfield Lane. Plaintiffs bought the home in September 2005 from Christopher and Chalase Peddicord. The deed was recorded September 23, 2005. The Peddicords moved to Minnesota after they sold the home.

The deed notes that the tax statement should be sent to Plaintiffs (Ivan and Galina Keptya) at 484 Muirfield Lane, Woodburn, Oregon 97071. The tax statement for the 2005-06 tax year was sent to Christopher and Chalase Peddicord, 484 Muirfield Lane, Woodburn. Defendant mailed that statement on October 21, 2005. Plaintiffs did not receive that statement. The parties assume that the Peddicords filed a change of address form with the Woodburn post office and that the disputed tax statement was forwarded to the Peddicords in Minnesota. Defendant updated its records to reflect the change in ownership on November 17, 2005.

Plaintiffs received a Notice of Delinquent Property Taxes in late June or early July 2006 and paid their taxes on July 17, 2006. The tax bill included interest in the amount of \$204.33. Plaintiffs do not dispute the amount of taxes billed and paid, but do object to the imposition of interest.

## II. ANALYSIS

The tax collector is statutorily required to mail property tax statements each year on or before October 25 to all owners of real or personal property in the county. ORS 311.250(1)<sup>1</sup> provides, in relevant part:

“Except as to real property assessed to ‘unknown owners’ pursuant to ORS 308.240 (2), on or before October 25 in each year, the tax collector shall deliver or mail to each person (as defined in ORS 311.605) shown on the tax roll as an owner of real or personal property \* \* \* a written statement of property taxes payable on the following November 15.”

The tax collector uses the address it has on record for each property owner for the annual mailing of the tax statements.

Payment of at least one-third of the taxes must be made by November 15, and the final trimester payment is due on or before May 15 of the following year. *See* ORS 311.505(1). The applicable deadlines in this case (for the 2005-06 tax year) were November 15, 2005, for the first trimester payment, and May 15, 2006, for the final payment. Plaintiffs did not pay their taxes until July 17, 2006. Plaintiffs’ payment was late.

The tax collector was required to charge interest on Plaintiffs’ late payment pursuant to ORS 311.505(2), which provides in relevant part:

“Interest shall be charged and collected on any taxes on property, \* \* \* or installment thereof not paid when due, at the rate of one and one-third percent per month, or fraction of a month until paid.”

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<sup>1</sup> Unless noted otherwise, all references to the Oregon Revised Statutes (ORS) are to 2003.

The question in this case is whether Plaintiffs are entitled to a waiver of the interest because they did not receive the property tax statement.

Property owners are required by ORS 311.555<sup>2</sup> to keep the tax collector informed of their “true and correct address” and, under ORS 308.212,<sup>3</sup> to notify the assessor of any change of address within 30 days of the date of the change. The tax collector then has an obligation to “note upon the tax roll \* \* \* the true and correct address of each person \* \* \* owning real or personal property in this state, as furnished under ORS 311.555 or as otherwise ascertained by the tax collector.” ORS 311.560.

Plaintiffs did not personally notify the assessor or tax collector of their change of address. According to Weisner’s testimony, the assessor’s office learned of Plaintiffs’ purchase when the Marion County Recording Office forwarded to the assessor’s office the deed evidencing the sale to Plaintiffs. The deed was recorded on September 23, 2005, and forwarded to Defendant sometime thereafter. Weisner testified that the tax statement was created on October 3, 2005, and mailed October 21, 2005. The statement was mailed to the correct street address, but addressed to the Peddicords, who had moved to Minnesota after the sale. It is assumed that the tax statement was forwarded by the post office to the Peddicords in Minnesota. Defendant’s

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<sup>2</sup> ORS 311.555 provides, in relevant part:

“Each person, firm or corporation owning a 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.”

<sup>3</sup> ORS 308.212 provides, in relevant part:

“(1) Any person who owns real property located in any county shall notify the county assessor for the county where the property is located of that owner’s current address and, within 30 days of the change, shall notify the assessor of any change of address.

“ \* \* \* \* \*

“(3) The county assessor of each county shall maintain records showing the information required to be submitted to the assessor under this section. The assessor shall note any property owner’s change of address on the tax rolls.”

records were updated to reflect Plaintiffs' purchase on November 17, 2005. Had the purchase been made a month or two earlier, the problem likely would not have occurred. The timing in this case was critical and worked against Plaintiffs.

ORS 311.250(2) provides that "[t]he failure of a taxpayer to receive the statement described in this section shall not invalidate any assessment, levy, tax, or proceeding to collect tax." Plaintiffs should have known that there was a problem with the county's records when they did not receive their tax statement. *See generally Gordon v. Dept. of Rev.*, 12 OTR 288, 290 (1992) (noting that it is not the county's obligation to institute a search for a taxpayer's correct address, but it is the taxpayer's responsibility to keep the county informed of the taxpayer's correct address). The Oregon Supreme Court has stated that "every citizen 'is presumed to have known that his land was taxable, that in due course it would be assessed, a tax levy extended against it, and \* \* \* that it was his duty to timely pay his taxes \* \* \*.'" *Hood River County v. Dabney*, 246 Or 14, 28, 423 P2d 954 (1967) (internal citations omitted).

Keptya testified that she and her husband knew they were supposed to receive a property tax bill but they did not know when it was supposed to arrive. Plaintiffs were told in closing that the title company would "change everything." Unfortunately, the title company relied on the established procedures for notification to the assessor by the recorder's office and that process did not result in the timely change of address in Defendant's records. Plaintiffs did not separately notify the assessor's office of their purchase, as required by statute. Had they done so, they would likely have received their tax statement and the problem here at issue would never have arisen.

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### III. CONCLUSION

Plaintiffs' request for waiver of the interest charged for the late payment of their property taxes for the 2005-06 tax year, on property identified as Account R323041, is denied. There is no statutory authority for waiving interest when taxpayers purchase property shortly before the assessor's office is required to mail the annual property tax statement and the taxpayers do not promptly notify the assessor or tax collector of their purchase and the correct address for the mailing of the tax statement. Now, therefore,

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

Dated this \_\_\_\_\_ day of January 2007.

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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 January 25, 2007. The Court filed and entered this document on January 25, 2007.***