

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

RICHARD E. GINNOLD,	)	
	)	
Plaintiff,	)	TC-MD 070217B
	)	
v.	)	
	)	
LANE COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appeals concerning a clerical error letter issued by Defendant on December 21, 2006. The property involved is a single family residence located at 945 Chambers Street in Eugene; it is identified as Account 1534443.

I. STATEMENT OF FACTS

Defendant’s appraiser discovered property improvements that he believed to be omitted from the assessment rolls for prior years. Specifically, it involved the alleged “renovation of the single family dwelling into a triplex with additional square footage.”<sup>1</sup> A Notice of Intention to Add Value Due to Clerical Error (citing ORS 311.205) was sent to Plaintiff on November 29, 2006. That was followed by an official roll correction on December 21, 2006. It is from that specific action that Plaintiff appeals.

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<sup>1</sup> Defendant’s notice dated November 29, 2006.

Later, Defendant discovered the situation did not meet the statutory definition of a clerical error. Sometime in late April or early May 2007, that earlier clerical error action was withdrawn, or “superceded,”<sup>2</sup> by Defendant. In its place, a Notice of Intention to Add Omitted Property was mailed. The reasons for the correction remained the same as before. ORS 311.216 was cited as Defendant’s authority to undertake the action.

That later substitution may have been effective but for one intervening action. Plaintiff sold the subject property on December 19, 2006.

## II. ANALYSIS

Defendant admits the initial characterization of the situation as a clerical error was improper. That was stated at the court’s case management conference, demonstrated by the later omitted property notice that “superceded” the first notice by a written statement filed May 30, 2007. In that statement, Defendant’s representative said that “since the plaintiff no longer owns the subject property and there is now bona fide purchaser involvement, the omitted property/clerical error issue appears to be moot.” The court agrees.

The sale of the property invokes the potential application of ORS 311.235.<sup>3</sup> That statute provides protection for a subsequent bona fide purchaser where any additional taxes were not yet a matter of public record at the purchase date.

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<sup>2</sup> “Supercedes” is the term used in the subsequent omitted property letters sent in 2007.

<sup>3</sup> References to the Oregon Revised Statutes (ORS) are to 2005.

### III. CONCLUSION

Plaintiff is not liable for any retroactive property assessments related to the alleged renovation of the subject property, his former residence. The court finds the December 21, 2006, clerical error correction is void. Now, therefore,

IT IS THE DECISION OF THIS COURT that the appeal is granted.

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

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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 August 1, 2007. The Court filed and entered this document on August 1, 2007.***