

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JEFFREY L. MILLER, TRUSTEE,)	
JEFFREY L. MILLER, REVOCABLE)	
LIVING TRUST,)	
)	
Plaintiffs,)	TC-MD 070588C
)	
v.)	
)	
LANE COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs have appealed to this court asking for a waiver of all or at least a portion of the “penalties and interest” imposed by Defendant for unpaid property taxes for tax years 2003-04 through 2006-07, inclusive, on Account 1003134. The initial case management conference held on August 10, 2007, was converted to a trial at the request of the parties. Jeffrey Miller (Miller) appeared for Plaintiffs. Defendant was represented by Gloria Rogers, an employee in the tax collector’s office.

I. STATEMENT OF FACTS

The subject property is a mobile home park. The property is identified by two separate account numbers: 1003134 and 0459972. The appeal involves the additional charges applied to Account 1003134.

The tax statements for both accounts were sent to Miller’s office in Portland. Miller moved his office in 2000 or 2001. The office was originally located at 10 NW Macleay Blvd, Portland, and was moved to 834 SW St. Clair Ave., #202, Portland. The tax statements for both accounts were sent to the Macleay Blvd. address from 1995 through 2001. Defendant received a notice of change of address from Plaintiffs in June 2001 for the property taxed under

Account 0459972. Defendant updated its records accordingly, and, beginning with the 2002-03 tax year, Defendant mailed the tax statement for Account 0459972 to the new SW St. Clair Ave. address. Defendant did not update its records for the property identified under Account 1003134. Plaintiffs received the tax statements for Account 0459972 from 2002 through 2006 and paid the taxes on that account each year. Plaintiffs did not receive the tax statements for the other account (1003134), and did not pay the taxes. Because the taxes were not paid each year, interest accrued. The total amount of interest is more than \$25,000.

Defendant began the foreclosure process in 2007, and made a more diligent search of its records for another address for Plaintiffs. Defendant found the SW St. Clair Ave. address and sent a copy of the delinquency notice to Plaintiffs at that address. Plaintiffs received that notice and are requesting a waiver or reduction of the interest. Plaintiffs do not dispute their liability for the unpaid taxes, which amount to \$87,644.56.

Plaintiffs complain that they did not receive a property tax statement and contend they probably submitted a change of address to Defendant, as they did with the other account. Regardless, Plaintiffs believe that Defendant should have taken the time to locate them as Defendant ultimately did in 2007 when it was pursuing foreclosure. Defendant responds that it did not receive a change of address on this account, that the tax statements were mailed according to applicable law, Plaintiffs failed to pay the tax, and interest is mandatory under the law. Moreover, Defendant asserts that taxpayers are presumed to know that they have a tax burden and that statements are mailed in the fall.

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II. ANALYSIS

The law requires the county tax collector to mail tax statements to the owners of record for all real and personal property. ORS 311.250(1).¹ Statements are mailed to the address of record. Property owners are statutorily required by ORS 311.555 to keep the tax collector informed of their “true and correct address” and, under ORS 308.212, to notify the assessor of any change of address within 30 days of the date of the change.

Plaintiffs do not have any evidence that they actually notified Defendant of their change of address on this account. In fact, Plaintiffs do not even assert that they so notified Defendant because they are not certain whether they did so. Rather, Plaintiffs only contend that it is “reasonable to assume” that if they submitted a change of address for one account, that they did so for the other. On the evidence before it, the court concludes that the only reasonable assumption is that Plaintiffs did not submit a change of address. Moreover, even if Plaintiffs could definitively show that they notified Defendant of their change of address, the court would not necessarily refund interest for four years of unpaid taxes because, at some point, Plaintiffs should have recognized that after paying approximately \$40,000 per year for the property taxes on their mobile home park, their annual tax liability decreased to \$20,000.

Under Oregon law, “[t]he failure of a taxpayer to receive the [tax] statement * * * shall not invalidate any assessment, levy, tax, or proceeding to collect tax.” ORS 311.250(2). As Defendant notes in its Answer, “all property owners are presumed to know [] whether or not they have a tax burden.” (Def’s Answer at 1.) The Oregon Supreme Court has stated that, “every citizen ‘is presumed to have known that his land [i]s taxable, that in due course it would be

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¹ All references to the Oregon Revised Statutes (ORS) are to 2005.

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) (citation omitted).

The disputed interest charges are mandatory when taxes are not paid when due. ORS 311.505(2). The court, in limited circumstances, will abate interest charges under ORS 311.565 where, for example, the taxpayer notifies the tax collector of a change of address but the tax collector fails to timely update its records and, as a result, mails the tax statement to the old address. That is not the situation in this case. Plaintiffs have not established that they notified Defendant of the change of address for the account under appeal. On the facts before it, the court concludes that it cannot waive or reduce the statutorily mandated interest Defendant imposed.

III. CONCLUSION

The court concludes that Plaintiffs’ request for a reduction or waiver of interest imposed by Defendant for the untimely payment of property taxes for tax years 2003-04 through 2006-07, inclusive, on Account 1003134 must be denied. There is no wrongful conduct on the part of the Defendant. Rather, Plaintiffs did not receive a tax statement because they did not notify the assessor of their change of address and, as a result, neglected to pay their taxes. Now, therefore,

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

Dated this _____ day of August 2007.

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 August 31, 2007.
The Court filed and entered this document on August 31, 2007.***