

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

HERBERT TAYLOR WATKINS III)	
and MARIE RENEE TAYLOR,)	
)	
Plaintiffs,)	TC-MD 070744E
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiffs appeal the real market exception value of their property for tax year 2004-05 and the assessed value for the subsequent tax years of 2005-06 and 2006-07.

A case management conference was held Wednesday, November 14, 2007. Herbert Taylor Watkins III (Watkins) appeared on behalf of Plaintiffs. Dennis Wardwell, appraiser, and Robert Sanderman, appraiser, appeared on behalf of Defendant.

I. STATEMENT OF FACTS

During the case management conference, Watkins stated that Plaintiffs are appealing Defendant’s determination of the real market exception value added to the tax roll for tax year 2004-05. He stated that Plaintiffs are not appealing the “overall” real market value of their property, but only the real market value of the improvements that was added to the tax roll in 2004-05. Watkins explained that Plaintiffs are appealing two other tax years (2005-06 and 2006-07) because the assessed value for each tax year is based on the real market exception value added in tax year 2004-05.

In response to Plaintiffs’ Complaint, Defendant filed a Motion to Dismiss (Motion), stating first, that Plaintiffs should have appealed to the Board of Property Tax Appeals (BOPTA) and second, that the court lacks “jurisdiction over the subject matter of the complaint under

ORS 305.288(1)” because Plaintiffs have not requested a “ reduction in the real market value equal to or greater than 20% of the real market value on the roll.” (Def’s Motion.)

At the conclusion of the conference, the court explained that for the following reason Defendant’s Motion to Dismiss is granted.

II. ANALYSIS

Because Plaintiffs failed to file an appeal with BOPTA, the court can hear Plaintiffs’ value appeal only if Plaintiffs meet the statutory requirements of ORS 305.288(3)¹ which provides:

“The tax court may order a change or correction applicable to a separate assessment of property 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 assessor taxpayer has no statutory right of appeal remaining and the tax court determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal.”

(Emphasis added.)

ORS 308.007(1)(c) defines a tax year as a period of 12 months beginning on July 1. Plaintiffs appeal was filed September 20, 2007, which is after the current tax year that began July 1, 2007. The “two tax years immediately preceding the current tax year” began July 1, 2005, and July 1, 2006. *Id.* Plaintiffs are appealing a tax year beginning July 1, 2004, which is beyond that allowed by statute. The court does not have jurisdiction to hear their appeal. Plaintiffs did not raise any justiciable issues for tax years 2005-06 and 2006-07.

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

III. CONCLUSION

Because Plaintiffs are appealing a tax year beyond that allowed by ORS 305.288(3), the court does not have jurisdiction to hear their appeal. Plaintiffs raised no justiciable issues for tax years 2005-06 and 2006-07. Defendant's Motion to Dismiss must be granted. Now, therefore,

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

Dated this _____ day of December 2007.

JILL 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 December 4, 2007. The Court filed and entered this document on December 4, 2007.