

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

KATHLEEN R. HEALY,)	
)	
Plaintiff,)	TC-MD 080954B
)	
v.)	
)	
CLACKAMAS COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff has appealed concerning the assessment of certain real property identified in the Clackamas County tax records as Account 00003597. A case management conference was held October 8, 2008. Kathleen R. Healy appeared on her own behalf. Matt Healy appeared for Defendant. Subsequently, written information was received; the record closed November 10, 2008.

I. STATEMENT OF FACTS

The property involved here is a single family residence. It had a 290 square foot addition constructed in early 1998. The final inspection was done by the City of Milwaukie on March 30, 1998. Defendant's representative stated his office never received a copy of that action. The addition was not made part of the total assessment for the following 1999-2000 tax year.

Plaintiff later purchased the property on February 28, 2001. She unaware that the property assessment did not include all of the structures at the site. Plaintiff testified the situation was not a matter of public record and she was not earlier put on notice.

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Defendant discovered its error in August of 2007 during a reappraisal of the
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neighborhood. On May 5, 2008, it sent Plaintiff an “Omitted Property Notice” that added back assessments and taxes for years 2002-03 through 2007-08.

II. ANALYSIS

ORS 311.216¹ commands that an assessor shall add property to the assessment rolls where it has been discovered omitted for any cause.

ORS 311.235 provides a limited exception. It states that no later ad valorem taxes shall be placed on real property purchased by a bona fide purchaser “unless at the time of purchase *the taxes were a matter of public record*. (Emphasis added.) Here, that critical information was not provided by Defendant. Although given an opportunity to provide written materials on this specific issue, Defendants arguments did not contradict Plaintiff’s assertions.

Based on the evidence available to the court, Plaintiff was a bona fide purchaser in 2001 and these assessments and taxes (later added) were clearly not a matter of public record. Such circumstances render the omitted property action improper; the additional assessments shall be cancelled for tax years 2002-03 through 2007-08. *See Sheffield v. Dept. of Rev.*, 11 OTR 37 (1988).

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

III. CONCLUSION

The court concludes that Plaintiff's appeal shall be granted. Now, therefore,

IT IS THE DECISION OF THE COURT that the omitted property assessment actions shall be cancelled and any excess taxes paid be refunded to Plaintiff with statutory interest thereon.

Dated this _____ day of November 2008.

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 ON NOVEMBER 25, 2008, AND FILED THE SAME DAY.
THIS IS A PUBLISHED DOCUMENT.***