

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

MYRTLE CREEK INVESTORS,)
)
 Plaintiff,) TC-MD 982081C
)
 v.)
)
 DOUGLAS COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is now before the court on Defendant’s Motion to Dismiss, filed May 25, 2007. Oral arguments were presented on July 9, 2007. David E. Carmichael, Attorney at Law, represented Plaintiff. Paul E. Meyer, Legal Counsel, represented Defendant.

I. STATEMENT OF FACTS

This appeal concerns certain real property, identified as Account 11751.14, for the 1994-95 tax year. It was earlier pending before the Oregon Department of Revenue as case No. 97-4049. It was then transferred to the Magistrate Division on June 8, 1998. Since that time, it has been held in abeyance awaiting resolution of certain other low income housing appeals.¹

Plaintiff first appealed the 1994-95 tax year value of this property to the Douglas County Board of Equalization (BOE). It was assigned a designation of “Petition 30081(A).”

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¹ The appeal was reactivated by an Order Reactivating Case issued July 18, 2007.

Prior to any hearing by the BOE, the parties entered into a “Stipulation - Assessor’s BOE/BORR Appeal Response” for the 1994-95 tax year. It set the following real market value (RMV):

Land:	\$ 104,748
Improvements:	<u>\$ 945,252</u>
Total RMV:	\$1,050,000

The document recited that “Petitioner is in agreement with the value recommended [by the assessor].” (Def’s Mot to Dismiss, Ex B.) That Stipulation was signed by authorized representatives for Plaintiff and Defendant on January 12, 1995. A BOE order ratifying the agreement was issued February 14, 1995.

A few years passed. In June of 1997, Plaintiff appealed those same stipulated 1994-95 values to the Oregon Department of Revenue.² It alleged those finalized values should be again substantially reduced.³ The petition erroneously stated there had been no prior BOE appeal. ORS 306.115 was cited as the jurisdictional basis. (Def’s Mot to Dismiss, Ex E.)

II. ANALYSIS

There was no ultimate finding by the Oregon Department of Revenue as to any claim of overvaluation for the 1994-95 tax year. A taxpayer appealing a property assessment must, by statute, be “aggrieved.” *See* ORS 305.275(1)(a).⁴ If a taxpayer is not aggrieved, the taxpayer does not have standing.

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² That administrative agency was responsible for such appeals until later in 1997. At that time, certain pending appeals were transferred to the Oregon tax Court. This is one of those cases.

³ Plaintiff requested \$662,390 RMV.

⁴ Reference to the Oregon Revised Statutes (ORS) is to 1995.

Plaintiff received its 1994-95 tax bill in late 1994. Following accepted procedure, it submitted a timely appeal to the county BOE. Had that body acted on the appeal *to its detriment*, Plaintiff then could have appealed further to the Oregon Department of Revenue. In 2007, such a second level appeal would be to the Magistrate Division of the this court.

Instead, Plaintiff settled its dispute with Defendant in mid-January 1995. Those 1994-95 tax roll values were exactly as stipulated by the parties. Just as a county assessor is bound by such written agreements, so too is the property owner in such cases. *Taha v. Washington County Assessor*, TC-MD No 060296B (Nov 27, 2006).

Plaintiff fully and finally came to resolution with Defendant as to the 1994-95 tax year. There is no mechanism for Plaintiff to repudiate the earlier agreement and seek another, higher level review several years later.

This current appeal is presented pursuant to ORS 306.115, commonly referred to as the “supervisory authority.” That statute provides for limited relief outside the process of regular appeals and has been described as an extraordinary remedy. OAR 150-306.115(1). *See also ADC Kentrox v. Dept. of Rev.*, TC No 4722 (July 5, 2007) at 4. “If it were not, extraordinary actions would become ordinary and the limits on ordinary appeals would become meaningless.” *Resolution Trust Corp. V. Dept. of Rev.*, 13 OTR 276, 278 (1995). Here, the ordinary appeal route was followed in January of 1995. The stipulation at the county BOE settled the matter in its entirety. It cannot be revisited via this later, extraordinary vehicle.

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III. CONCLUSION

Plaintiff is not aggrieved by any action of Defendant nor by any Order of the Douglas County BOE. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal must be dismissed.

Dated this _____ day of August 2007.

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 8, 2007. The Court filed and entered this document on August 8, 2007.