

Dona Klinger

From: Dona Klinger <dona.klinger@q.com>
Sent: Thursday, February 21, 2013 12:22 PM
To: Iro.exhibits@state.or.us
Subject: FW: PUBLIC HEARING OF FRIDAY, FEBRUARY 22 ON TAX DEFERRAL PROGRAM
Attachments: Title Page to reply to motion.pdf; Reply to Motion to Dismiss, Motion to Strike (final).docx; Table of Authorities.docx; Table of Contents.docx

From: Dona Klinger [<mailto:dona.klinger@q.com>]
Sent: Tuesday, February 19, 2013 11:39 AM
To: IRO.exhibit@state.or.us
Cc: rep.vickiberger@state.or.us; Paul.D.Warner@state.or.us; Vulnerable Homeowners; Jack Phillips; Arta; dona.klinger@q.com
Subject: PUBLIC HEARING OF FRIDAY, FEBRUARY 22 ON TAX DEFERRAL PROGRAM

To: Legislative Revenue Committee
From: Dona Klinger, citizen/witness
Re: February 22nd Public Hearing

Unfortunately, I cannot attend the February 22 Hearing of the House Committee on Revenue, but wish to submit this e-mail, with four attachments (a reply brief filed with the Tax Court), as my testimony on the Oregon's Senior Property Tax Deferral Act. Instead, I must attend classes at Portland State University where I am working toward a second degree.

I am only one of thousands of elderly homeowners who still suffer from the consequences of the 2011 Legislation that threw us out of the property tax deferral program. Borrowing from an elderly friend in California and then selling several personal belongings, I finally managed to pay last year's taxes, long after they were due. I still owe over \$1300 for this year's taxes and have no idea how to pay the balance. The holder of my Reverse Mortgage has said that it may call my loan if I don't pay all of the property taxes.

Relying on the State's 2008 agreement to loan me the annual tax money, I bought a car. I attend college at PSU, driving that car to Portland from Salem three times a week. I use part of my Financial Aid to pay for it. But I have no way to pay the property taxes on my limited income. In two weeks, I will be 75 years old. The stress of representing myself in a complicated lawsuit, with the very real threat of losing my home, has left me with a nagging kind of physical pain that is apparently a part of living below the poverty line.

When my property and I were approved for the deferral program, I had lived in my house only a year and a half. I had previously paid property taxes on multiple properties in Oregon since 1972. The Department of Revenue removed me from the program in September 1, 2008, before the new legislative amendments were in effect or even in print. With taxes due in two months, the Department refused to pay that year's taxes, contrary to its own Administrative Rules. It gave no rational explanation except to say that I had a Reverse Mortgage. I appealed. Then in April of 2012, a second denial was sent to me stating that I did not qualify because I had not occupied the house for five years prior to filing my claim. I appealed that denial.

Because there were two reasons asserted for my disqualification, I did not qualify for the two-year legislative extension granted to other program participants. And because there is only one "initial application" for deferral in the deferral process, the Tax Court Judge now says that the one and a half years of prior occupancy will never change or increase; I will just get older.

My appeal to the Tax Court, filed without a lawyer, has been pending since December 2011. When I amended my Complaint to include constitutional violations and breach of contract, the case was moved from the Magistrate to the Regular Division. The Department of Justice filed a lengthy brief and Motion to Dismiss, Motion to Strike and Motion to Require Amendment of the Complaint. Working thirty years as a paralegal and fifteen as a Realtor did not fully prepare me for what I had to do. PLEASE TAKE THE TIME TO READ THE ATTACHED REPLY BRIEF FILED BY ME AT COURT STATING THE FACTUAL AND LEGAL PROBLEMS.

Even though the judge recently rejected three of my legal contentions, the cause of action against the State of Oregon for Breach of Contract still survives. I may not have to go to law school after all. The Court has ordered the state's attorney to substitute a Motion for Summary Judgment for its remaining Motions to Strike and to Dismiss. He allowed time for me to file a counter motion. I doubt that we will ever get to trial, but will probably submit the case on the legal issues only. Our next Oral Argument is not expected until summer. If I am lucky, there will be a court decision in my lifetime.

My point is that this lawsuit will have been pending for two years when we get a Court decision. In the meantime, I may lose my home in foreclosure for failing to pay the taxes. I just wanted you all to know that if I lose my case before the Tax Court – and manage to live long enough – I will appeal to the Oregon Supreme Court. I simply will not stop fighting back!

But the next time the Legislature breaks its word, first think about how it can hurt the people you serve.

Respectfully submitted,

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