

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Property Tax

CAMPBELL HOMES,	)	
	)	
Plaintiff,	)	No. 000051C
	)	
v.	)	
	)	
YAMHILL COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff has appealed the assessment of four manufactured structures held for sale and located in a manufactured home park, arguing that the homes should be exempt from taxation under ORS 307.400 as dealer inventory. A trial in the matter was held in Salem on May 10, 2000. Plaintiff was represented by Mr. Kevin Lafky, a Salem attorney. Appearing for plaintiff were Mr. Don Sloan, owner of Campbell Homes, and Ms. Barbara Campbell, former owner. Defendant appeared through Ms. Jeanie Sandall, an employee with the Yamhill County Assessor's office.

**STATEMENT OF FACTS**

The facts in this case are undisputed. Plaintiff is a licensed dealer of manufactured homes. Plaintiff sells homes from several locations in Oregon. This appeal involves four manufactured structures that were placed in the Springbrook Estates Manufactured Home Park in 1998 and offered for sale. They are identified in the Yamhill County Assessor's records as Account Nos. 510685, 510691, 510697 and 510700. Plaintiff did not have a dealer certificate to sell homes at Springbrook Estates.

Some of the manufactured homes in Springbrook Estates are occupied (lived in). The homes at issue were not occupied. It is not known whether the subject

homes were permanently located in Springbrook Estates, with foundations, landscaping, and driveways, etc., or whether they were temporarily situated within the park, fully set up or otherwise.

The assessor's office became aware of the existence of the homes in April 1998 and upon discovering that they were owned by Campbell Homes, a licensed dealer, Ms. Sandall decided to appraise the homes and "inactivate" the account until the homes were sold, provided plaintiff reported the homes as dealer inventory. No dealer inventory report was received by the assessor's office and the structures were taxed for the 1998-99 tax year. The first tax installment was timely paid on November 15, 1998, apparently by Barbara Campbell, who had recently acquired the business from her deceased husband. The balance of the taxes for that year were not paid. Two of the four homes under appeal have been sold and the taxes paid.

It is defendant's position that these homes should be subject to tax because manufactured home dealers seeking tax exemption for their inventory must provide the assessor with a list of homes in inventory and that the dealer must comply with applicable Department of Motor Vehicles (DMV) statutes and rules pertaining to licensing and certification. Specifically, plaintiff did not have a supplemental certificate to sell homes in Springbrook Estates and plaintiff failed to provide defendant with a list reporting these homes as dealer inventory.

Plaintiff counters that the homes are entitled to exemption as inventory despite its failure to comply with some of the DMV statutes or provide a report to the assessor. Since the parties agree the homes were held as dealer inventory, plaintiff frames the issue as a question of whether there is a statutory requirement to submit an inventory listing to the assessor in order to have homes exempted. Plaintiff acknowledges

the usefulness of the procedures utilized by the assessor to review these matters, but questions the significance of failing to comply. Finally, plaintiff points out that the past transgressions were the result of extraordinary circumstances (death of one former owner, Mr. Campbell) and ignorance of another (Mr. Mueller).

### **ISSUE**

Does the lack of a supplemental certificate, which authorizes a manufactured home dealer to sell property at a secondary location, defeat a claim for exemption under ORS 307.400, where the property is a manufactured home owned by a licensed dealer and held for sale to the general public?

### **COURT'S ANALYSIS**

Generally speaking, in Oregon, tangible personal property is subject to ad valorem taxation. ORS 307.030.<sup>1</sup> ORS 307.400(2) provides an exemption for “inventory”, which is defined in ORS 307.400(3), as follows:

“(3) As used in subsection (2) of this section, ‘inventory’ means the following tangible personal property:

“\* \* \* \*”

“(f) Items of tangible personal property described as materials, supplies, containers, goods in process, finished goods and other personal property owned by or in possession of the taxpayer, that are or will become part of the stock in trade of the taxpayer held for sale in the ordinary course of business.” ORS 307.400(3)(f).

Unlike other statutory exemptions, no application is required to receive the inventory exemption under ORS 307.400(2). *See, e.g.*, ORS 307.130 (exempting property

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<sup>1</sup> Tangible personal property is defined as “all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools and movable equipment.” ORS 307.020(3).

of qualifying literary, benevolent, charitable and scientific institutions) and 307.140 (exempting property of qualifying religious organizations). Failing to report inventory is not fatal to a claim for exemption, provided the exemption is otherwise appropriate.

The question in this case comes down to whether plaintiff held the property (four manufactured homes) for sale “in the ordinary course of business.” ORS 307.400(3)(f). Specifically, does the lack of a dealer certificate authorizing a dealer to sell homes at a particular location render the sales activity at such a location outside the “ordinary” course of business?

A brief overview of the motor vehicle licensing provisions is in order. The Department of Transportation issues a “vehicle dealer certificate to any person” who completes an application, obtains a bond, pays a fee and has appropriate insurance. ORS 822.020. The administrative rule pertaining to dealer locations requires that the dealer “have a certificate or supplemental certificate for each location where the dealers sells or displays vehicles for sale.” OAR 735-150-0030. The rule was promulgated by the Department of Transportation, Driver and Motor Vehicles Services Division. “A person commits the offense of acting as a vehicle dealer without a certificate”, which is a Class A misdemeanor, if he “[d]isplays a new or used\* \* \*manufactured structure for sale” without “a valid, current vehicle dealer certificate issued under ORS 822.020.” ORS 822.005(1)(b).

The parties and the court were unaware of any relevant precedent in Oregon. However, the court has found a recent case squarely on point which concludes that because plaintiffs lacked a supplemental certificate they were not operating in the ordinary course of business. *Caris-Sell Homes v. Umatilla County Assessor*, OTC-MD No. 991440B (April 12, 2000) (Decision). The court in *Caris-Sell* noted that “anyone in the business of buying and selling vehicles, including manufactured homes, must have a

dealer certificate”, citing ORS 822.005. Noting that a dealer needs a supplemental certificate to conduct business at an additional location, and that the dealer must have the certificate before conducting business, the court concluded that the plaintiff, who did not have the certificate, was “not operating in the ordinary course of business.” *Id.* at 4. Therefore, the exemption was denied.

That case is controlling and governs the outcome of the case at bar.

### **CONCLUSION**

The manufactured homes at issue were not held for sale in the ordinary course of plaintiff’s trade or business as required by ORS 307.400(3)(f) because plaintiff did not have a supplemental certificate for the location from which it was selling the homes. OAR 735-150-0030. Accordingly, the homes do not qualify for exemption as inventory under ORS 307.400(2) and (3)(f).

IT IS THE DECISION OF THE COURT that the relief requested by plaintiff must be and is hereby denied. The subject property is taxable for tax years 1998-99 and 1999-00.

Dated this \_\_\_\_\_ day of June, 2000.

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DAN ROBINSON  
MAGISTRATE

**IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97310. 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 JUNE 19, 2000. THE COURT FILED THIS DOCUMENT ON JUNE 19, 2000.**