

Taxpayers sold 10 cows² for a total of \$3,298, which they had originally purchased in 1994 for \$3,215. As a result, the sale price of the cattle was only \$77 more than what taxpayers paid for them. In 1995, taxpayers bought eight calves for \$1,861. They sold two in 1996 for a gain of \$116 and six in 1997 for a gain of \$1,464. They bought 11 calves in 1997 for \$2,817 and sold them all in 1999 for \$4,236, generating a gain of \$1,419. Taxpayers also used hay they grew in their operation amounting to at least \$900 a year.

The county sent taxpayers a Gross Income Questionnaire to fill out and return to the county. Based on the returned form, the county determined the property no longer qualified for special assessment because it failed to satisfy the income requirements. Taxpayers appeal acknowledging they met the income requirements in only two out of the five years. Taxpayers ask the court to allow them the special assessment because the events occurring in 1995 were unanticipated, unique, and beyond their control.

COURT'S ANALYSIS

The Oregon Legislature has created a special assessment program for property used for farm purposes. For property located within an exclusive farm use (EFU) zone, the property is entitled to special assessment if the owner can demonstrate the property is being used exclusively for farm use. ORS 308A.062, ORS 308A.056. Land that is not zoned for exclusive farm use must produce a minimum amount of gross income in three out of the previous five years before it can qualify for special assessment. ORS 308A.068(1)(a); ORS 308A.071. For a farm operation with more than six acres but less than thirty acres, an annual gross income of \$100 per acre or more is required. ORS 308A.071 states:

² The Gross Income Questionnaire states they sold 10 cows while the letter attached to taxpayers' Complaint states they sold 11 cows.

“(1) * * * farmland or a farm parcel that is not within an area zoned for exclusive farm use is not used exclusively for farm use **unless** all of the prerequisites of subsections (2) to (5) of this section are met.

“(2)(a) * * * in three out of the five full calendar years immediately preceding the assessment date, the farmland or farm parcel was operated as a part of a farm unit that has produced a gross income from farm uses in the following amount for a calendar year:

“* * * * *

“(B) If the farm unit consists of more than six acres but less than 30 acres, the gross income from farm use shall be at least equal to the product of \$100 times the number of acres and any fraction of an acre of land included.”³

The county disqualified the subject property from special farm use assessment for the 2000-01 tax year. The five previous calendar years that must be analyzed are 1995 through 1999. Taxpayers sold cattle in 1995, 1996, 1997, and 1999. For 1997 and 1999, when combined with the \$900 personal use of hay, taxpayers satisfied the gross income requirements. Due to the bad year in 1995, taxpayers' income failed to satisfy the gross income required. Two cows were sold in 1996 but were not sufficient to generate any substantial income. As a result, taxpayers did not meet the gross income requirements in three out of the five previous years.

Taxpayers ask the court to recognize the hardship presented in 1995 that was beyond their control. The court understands the 1995 year was an aberration and that, had things been normal, they would have likely met the income requirements. The court cannot, however, find any law that provides an exception for depressed cattle markets, and it is beyond the power of the court to create a judicial exception to the income

³ Gross income includes, with limitations, the value of any crop or livestock used by the owner in the farming operation. ORS 308A.071(7)(c). Gross income does not include the purchase cost of livestock. ORS 308A.071(7)(c)(B).

requirements.⁴ The court would note, however, that the legislature has recognized a farm parcel may experience difficult times and fail to generate the minimum income required because the law only requires the minimum income be earned in three out of five years.

CONCLUSION

Based on the evidence presented and the statutory requirements for assessment of land not located within an EFU zone, the court concludes the county's disqualification of the property was appropriate. Now, therefore;

IT IS THE DECISION OF THIS COURT that the county's disqualification of the property from special farm use assessment beginning with the 2000-01 tax year is affirmed.

Dated this _____ day of August, 2000.

COYREEN R. WEIDNER
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 COYREEN R. WEIDNER ON AUGUST 10, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 10, 2000.

⁴ Statutory exceptions are provided for flooding of crops and severe drought conditions. See ORS 308A.071(6).