

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

LAURIE AND SHIELA SLOCUM,)
)
 Plaintiffs,) No. 001221E
)
 v.)
)
 LANE COUNTY ASSESSOR,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on its own motion to dismiss the above-entitled appeal. The court discussed its motion with the parties during the case management conference held March 13, 2001. Laurie Slocum appeared on behalf of plaintiffs. David W. Evans appeared on behalf of defendant (the county).

STATEMENT OF FACTS

Plaintiffs purchased the subject property in September 2000.¹ In years past, the property was in the farm deferral program receiving special assessment as farmland. In early 2000, the county sent the prior owner a gross income questionnaire. The prior owner failed to return the form or otherwise respond to the county's inquiries. As a result, on July 7, 2000, the county notified the prior owner that the property was being removed from the farm deferral program beginning with the 2000-01 tax year.

When deciding whether to purchase the property, plaintiffs inquired about the tax status of the property and were assured by the prior owner that it was under special assessment. Subsequently, when they received the tax statement, plaintiffs discovered the county had removed the property from the farm deferral program. Plaintiffs intend to put

¹ The subject property is identified in the Lane County Assessor's records as Account No. 1255221.

the property to a farm use. They have joined the Country View Cattle Association and are planning on having cattle on the land by this spring.

On their Complaint, plaintiffs request that the property be reinstated in the farm deferral program beginning with the 2001-02 tax year. At the case management conference, Mr. Slocum confirmed that plaintiffs are wanting the property reinstated for future years.

COURT'S ANALYSIS

ORS 305.275 sets forth who may file an appeal with the Magistrate Division of the Oregon Tax Court. It states, in pertinent part:

“(1) Any person may appeal under this subsection to the magistrate division of the Oregon Tax Court * * * if all of the following criteria are met:

“(a) The person must be aggrieved by and affected by an act, omission, order or determination of:

“* * * * *

“(C) A county assessor or other county official, including but not limited to the denial of a claim for exemption, the denial of special assessment under a special assessment statute, or the denial of a claim for cancellation of assessment[.]” ORS 305.275.

In this case, plaintiffs are asking the court to require the county to place the subject property in the farm deferral program for the 2001-02 tax year. Plaintiffs, however, have not filed an application for special assessment with the county for the appealed year. ORS 308A.077 requires a taxpayer seeking special assessment to file an application with the county assessor by April 1.² If the county assessor denies the taxpayer's application, the

² ORS 308A.077 provides:

“(1) Any owner of nonexclusive farm use zone farmland entitled to special assessment under ORS 308A.068 must, to secure the assessment, make application therefor to the county assessor on or before April 1 of the first year in which the assessment is desired.”

taxpayer is then “aggrieved by and affected by an act” of the assessor and may file an appeal with the court. ORS 305.275(1)(a). Until the county denies the application, however, the taxpayer is not aggrieved and has no standing to file an appeal with this court.

CONCLUSION

The court concludes that plaintiffs are not aggrieved by an act of the assessor for the 2001-02 tax year because they have not filed an application for special assessment. As a consequence, they have no basis for filing this appeal. If plaintiffs file an application with the county and the county denies it, they will then have standing to file an appeal. Now, therefore;

IT IS THE DECISION OF THIS COURT that the above-entitled matter be dismissed.

Dated this _____ day of March, 2001.

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 97301-2563. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THIS DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON MARCH 20, 2001. THE COURT FILED THIS DOCUMENT ON MARCH 20, 2001.