

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

ROHLING FAMILY TRUST, )  
 )  
Plaintiff, ) TC-MD 010865B  
 )  
v. )  
 )  
LANE COUNTY ASSESSOR, )  
 )  
Defendant. ) **DECISION**

A trial was convened on November 6, 2002. David E. Carmichael, Attorney at Law, represented Plaintiff. Thomas L. Frederiksen participated for Defendant.

**STATEMENT OF FACTS**

This case involves the addition to the roll of an alleged clerical error situation. The property is identified in the Lane County tax records as Account 1514296. It is residential property located at 3325 Lake Glenn Drive in the Lakeshore Estates area of Eugene.

Defendant's appraisers made several visits to the property during 1998. These were made to derive an initial real market value for the 1999-2000 tax year. Usually, an appraiser would then make his own estimate and addition to the assessment roll that same date upon a return to the office. In this certain situation, it is unclear whether a new computer program was attempted to be utilized by the appraiser. The precise date of value conclusion here is unknown and was unproven during the trial of this matter.

The final city occupancy permit was issued in October of 1998. Soon thereafter, on November 4, 1998, an appraiser from Defendant's office made another official inspection. That appraiser did not testify at trial, so the presentation was, in large part, based on written records and inferences made by a different county official.

During that November 4, 1998 visit to the property, certain additions were made on

the appraisal records form. In particular, in the margin in large letters is the striking notation of “**Duplex???**”. This form was then returned to the assessor’s offices and may not have been timely acted upon. Plaintiff argues that Defendant’s subsequent use of the clerical error statute was impermissible.

### **COURT’S ANALYSIS**

ORS 311.205<sup>1</sup> allows a county assessor to make corrections for “clerical errors or omissions.” In relevant part, the statute provides:

“(1) After the assessor certifies the assessment and tax roll to the tax collector, the officer in charge of the roll may correct errors or omissions in the roll to conform to the facts, as follows:

“(a) The officer may correct a clerical error. A clerical error is an error on the roll which either arises from an error in the ad valorem tax records of the assessor, or the records of the Department of Revenue for property assessed under ORS 306.126, \* \* \* and which, had it been discovered by the assessor or the department prior to the certification of the assessment and tax roll of the year of assessment would have been corrected as a matter of course, and the information necessary to make the correction is contained in such records. Such errors include, but are not limited to, arithmetic and copying errors, and the omission or misstatement of a land, improvement or other property value on the roll.

“(b) The officer may not correct an error in valuation judgment, except as provided in ORS 308.242 (2) and (3) \* \* \*.”

It is important that the records contain all information required to make the appropriate correction. In this case, the court finds that another step was required.

Oregon Administrative Rule 150-311.205(1)(a)(1) provides:

“[a] clerical error is an arithmetic or copying error or an omission on the roll or misstatement of property value that is apparent from assessor office records without speculation or conjecture, assumption or presumption, and that is correctable without the use of appraisal judgment or the necessity to view the property.”

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<sup>1</sup> All references to Oregon Revised Statutes (ORS) are to 1999.

Here, some more decision making by the county appraiser was clearly required. The choice, and judgment, was needed as to whether the subject property was a duplex dwelling or not. That selection would not have been automatic or done without choice by the new computer system.

The court finds that the situation qualifies as a situation where additional valuation judgment was required. That situation is not subject to later correction by the assessor's staff.

### **CONCLUSION**

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is granted.

Dated this \_\_\_\_ day of March, 2003.

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JEFF MATTSON  
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 THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON MARCH 24, 2003. THE COURT FILED THIS DOCUMENT ON MARCH 24, 2003.**