

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

HOUSING DEVELOPMENT CORPORATION,	)	
	)	
Plaintiff,	)	No. 021002A (Control)
	)	
v.	)	
	)	
WASHINGTON COUNTY ASSESSOR,	)	
	)	
Defendant.	)	
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MONTEBELLO APARTMENTS LIMITED PARTNERSHIP,	)	
	)	
Plaintiff,	)	No. 021003A
	)	
v.	)	
	)	
WASHINGTON COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs have appealed Defendant's decision to deny the exemption available under ORS 307.485<sup>1</sup> (farm labor camps) for the 2002-03 tax year. The properties are identified by Account Nos. 1N232CC-3100, 1S211AC-1500, 1N331DB-2202, 1N331DB-2203, 1N333DD-101, 1N334DC-100, 1S34BA-2000, and 1S34BA-2500.

**STATEMENT OF FACTS**

Housing Development Corporation is either the owner, or general partner, as to each of the properties at issue. All of the properties are apartments used to provide housing for farm workers.

An exemption is available under ORS 307.485 for properties owned or operated by a nonprofit corporation as a nonprofit facility providing housing for farm workers. The exemption is claimed through an annual filing. ORS 307.495(1). The application is

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<sup>1</sup>All references to the Oregon Revised Statutes (ORS) are to 2001.

due on or before April 1. ORS 307.495(1).

Plaintiffs have a history of filing for the exemption in a timely manner. These applications have always been granted by Defendant. For the year at issue, the long-time employee responsible for filing the applications retired prior to April 1. Her replacement was under the impression that the applications were due on April 15th. Under the belief that they were filing early, Plaintiffs filed their applications on April 2nd. This was a day too late.

The properties are occupied by low-income farmworker families. Plaintiffs receive no income from these properties. In an effort to keep the rents as low as possible revenues are set at a level that just equals expenses. Neither Plaintiffs, nor the farmworker tenants of these properties, have the resources to pay the sums which would become due if property taxes are imposed on these properties.

For its part Defendant agreed that Plaintiffs are entities that have qualified for exemption in the past, and that their application, had it been timely filed, would have been approved.

### **COURT'S ANALYSIS**

This court, like Defendant, simply lacks the power to treat Plaintiffs' applications as if they were timely filed. However, another entity does have the ability to grant Plaintiff's request. Time is of the essence, as this entity only has a limited opportunity in which to act.

As to the first point, if this court could overlook the filing date, it would do so in this case. There is no dispute that Plaintiffs are doing important work to meet the statutory goal of benefitting farm workers. Plaintiffs have qualified for the exemption in the past. In a few months Plaintiff will be able to qualify the property for the 2003-04 tax year. Taxing the property for the 2002-03 tax year would work a great hardship to

Plaintiffs and those they serve. However, this court has earlier decided, in *Stone v. Dept. of Rev.*, 5 OTR 503, 506-507 (1974), that important reasons, set out in the following explanation, preclude it from overlooking a failure to obey filing dates:

"Why must this be? Why should relief be denied the well-intentioned taxpayer whose affairs precipitate him into crises of time? It seems that the law, formulated by human beings, must ever be imperfect. It is not able to provide a formula to compensate for the infinite variations in human fallibility. The law's administrator, whose chief protection is found in non-discriminatory application of the legislature's requirements, does not dare to deviate from the dictates of the statutes. If he allows one taxpayer an extra day, he logically must accept all others on an equal basis. And if one day can be granted, why not two or three? Soon the law is eroded and uncertain and administrative feasibility is impaired. The most perfect justice is found in determining the rule to be followed and adhering to it. It then becomes known to all, its seeming intricacies are untangled, and it is soon accepted as a matter of course by the citizen."

While the court lacks the ability to determine whether or not good reasons should excuse a failure to file on time, another entity does have that ability. The Department of Revenue has the power to order relief in hardship situations when the failure to file for exemption was for good cause. The source of the power is ORS 307.475. This statute is intended to address situations where the property is now subject to taxation, but would have been exempted had there been a timely filing of a valid claim for exemption, and where the failure to make a timely application for the exemption was by reason of good and sufficient cause. ORS 307.475 (2). The decision to grant or withhold relief is at the discretion of the agency's director. ORS 307.475.

This statute makes the Department of Revenue, and only the Department of Revenue, the entity with the power, if it so chooses, to turn back the clock and treat

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Plaintiffs' applications as if they had been timely filed. *HOWEVER, AN APPLICATION TO THE DIRECTOR FOR A RECOMMENDATION OF TAX RELIEF ON THE GROUNDS OF HARDSHIP MUST BE MADE TO THE AGENCY NOT LATER THAN*  
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*DECEMBER 15 OF THE YEAR IN WHICH THE FAILURE TO CLAIM THE EXEMPTION OCCURRED. ORS 307.475(3).*

Under all these circumstances the best the court can do is to deny the appeal, albeit by pointing Plaintiffs in the direction in which relief may lie and emphasizing the need for haste.

### **CONCLUSION**

The court cannot order the relief Plaintiffs request. Another entity may be able to do so. Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal is denied.

Dated this \_\_\_\_\_ day of November, 2002.

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SCOT A. SIDERAS  
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 SCOT A. SIDERAS ON NOVEMBER 12, 2002. THE COURT FILED THIS DOCUMENT ON NOVEMBER 12, 2002.**