

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

GORDON REMSBURG and JUDI
REMSBURG,)
)
)
Plaintiffs,) No. 021082A
)
v.)
)
MULTNOMAH COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

Gordon and Judi Remsburg have appealed the disqualification of their property, identified by Account No. R111656, from special assessment as lands in farm use for the 2002-03 tax year. Mr. Remsburg appeared and made his arguments. Multnomah County was represented by Ken Collmer.

STATEMENT OF FACTS

The property at issue is less than 5 acres. It was disqualified from farm use assessment because of a failure to generate the necessary amount of farm income.

The Remsburgs explained that in 1997 they decided to stop raising cows and start raising llamas. The rule of thumb, they testified, was that llama sales occur after five years, for it takes that long for the herd to grow to the point that sales may be made without endangering the ability to generate desirable animals. The general rule proved true in the Remsburgs' case, for they made their first sale in 2002.

COURT'S ANALYSIS

On the one hand, the court cannot give the Remsburgs the assistance they desire. The law is unequivocal, and strict. ORS 308A.071¹ dictates that in order to qualify for special assessment farm units of the size of the Remsburgs must produce an

¹All references to the Oregon Revised Statutes (ORS) are to 2001.
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annual gross income of at least \$650 for a minimum of three of the last five years. The legislature might have allowed for a lower income threshold. It could have relaxed the number of years which must show the minimum return. The lawmakers could have allowed the court a discretionary ability to waive the requirements. None of these alternatives were chosen. Instead, the exemption is strictly applied.

On the other hand the legislature anticipated that there would be individuals, such as the Remsburgs, who due to circumstance and their type of farm, would have problems keeping their property specially assessed. Provision was made for these individuals through ORS 308A.706 and 308A.709. These statutes make the sums which would otherwise become due upon disqualification potential liabilities which will only be imposed should the land be converted to a use incompatible with its return to farmland. Another important statute is ORS 308A.119. Under this law, if the property requalifies for farm use assessment, the potential liability is abated, with each year of continued farming wiping away a year of the potential debt.

Mr. Remsburg spoke of his plan to continue farming, and his hopes to have his herd supplement his retirement income. These efforts should again qualify the property for special assessment, and over time wipe out the potential additional liability. The court, however, cannot do more on these facts. The appeal is denied.

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CONCLUSION

Now, therefore,

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

Dated this _____ day of November, 2002.

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 29, 2002. THE COURT FILED THIS DOCUMENT ON NOVEMBER 29, 2002.