

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

SERGEY MICHALCHUK,)
)
 Plaintiff,) No. 021103A
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Mr. Michalchuk has appealed, for the 2002-03 tax year, the disqualification of his property from special assessment as lands in farm use. He appeared and made his arguments. Keith Michel, of its staff, represented Multnomah County.

STATEMENT OF FACTS

The property at issue is some nine acres in size. Mr. Michalchuk purchased it in October of 1999. At that time he did not know the property needed to be put to a farm use to retain its special assessment. He did not subsequently become aware of this requirement until Multnomah County disqualified the property. While Mr. Michalchuk spoke of leasing the property to a beekeeper for one thousand dollars a year, in fact no rents were paid.

COURT'S ANALYSIS

ORS 308A.056(1)¹ limits the benefit of farm use assessment to land currently employed for the primary purpose of obtaining a profit in money from farming. As this is unzoned farmland under the definition of ORS 308A.053(4), for at least three of the last five years it must have produced a gross income from farm use of at least \$900.

On this state of the record the court cannot see how either all nine acres were

¹All references to the Oregon Revised Statutes (ORS) are to 2001.
DECISION CASE NO. 021103A

currently being farmed, or that the land was generating a sufficiently large return from farming. It is regrettable that Mr. Michalchuk was not aware of what must be done to retain his land under special assessment. However, the legislature, anticipating that there would be individuals like Mr. Michalchuk, limited the consequences. While his land will no longer be specially assessed, at the same time the potential additional taxes which would otherwise be imposed are stayed so long as the land is not converted to a use inconsistent with its eventual return to farmland. ORS 308A.706(1). Should Mr. Michalchuk requalify the land for special assessment, these potential additional taxes will be abated. ORS 308A.119.

CONCLUSION

Now, therefore,

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

Dated this _____ day of December, 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 DECEMBER 18, 2002. THE COURT FILED THIS DOCUMENT ON DECEMBER 18, 2002.