

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

PACIFIC UNIVERSITY,)	
)	
Plaintiff,)	TC-MD 021116D
)	
v.)	
)	
WASHINGTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals Defendant's denial of its application for exemption from property taxation filed March 21, 2002. A telephone trial was held on Monday, March 10, 2003. Ms. Irene Moszer, Vice President for Finance and Administration, appeared on behalf of Plaintiff. Ms. Allie Losli, Controller, and Mr. Joe Cooke, Manager of Custodial and Landscape Services, testified. Mr. Elmer Dickens, Assistant County Counsel, appeared on behalf of Defendant. Ms. Betty O'Rourke, Senior Administrative Specialist, Exemptions and Special Assessments, testified.

STATEMENT OF FACTS

On March 21, 2002, Plaintiff filed an application for exemption from property taxation for the 2002-2003 tax year. In its application, Plaintiff requested that the exemption be granted under ORS 307.145. Plaintiff wrote that its exempt use of the property was for the following purpose: "The land will be used to store our landscaping equipment and materials that the landscaping crew need." (Def's Ex B.)

After receiving the application, Ms. O'Rourke inspected the property on June 24, 2002, June 28, 2002, and July 4, 2002. On July 10, 2002, Defendant notified Plaintiff that its application was denied because there was no evidence that "materials or equipment were stored" on the property and Defendant was unable to find any access

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"onto property for equipment" nor "signs on the ground of equipment being stored" there.
(Def's Letter dated July 10, 2002.)

In response to Defendant's letter of denial, Plaintiff filed its Complaint on September 11, 2002. During the telephone trial, Mr. Cooke testified that the subject property has been used to store wood taken from trees located on the Pacific University campus. The wood comes from dead trees or pruning and maintenance of existing trees. Mr. Cooke testified that the wood is placed on the subject property and available free to anyone who wants it. Individuals participating in programs, such as the Peace and Conflict Studies 230, Upward Bound, and Hawaiian Club, split the wood for various events. Plaintiff submitted a letter from Ellen Hastay, Instructor, Peace and Conflict Studies 230, dated November 14, 2002. Ms. Hastay wrote that many students have "minimal wood-chopping skills" and the "principle activities in this service learning class is to chop firewood for Navajo elders." (Ms. Hastay's Letter dated November 14, 2002.) She stated that "we regularly conducted wood-chopping practice" on the subject property "throughout the fall", "starting in October of 2001." (*Id.*) The wood is not used by the maintenance crew for landscaping the campus.

In addition to storing the wood on the subject property, Mr. Cooke testified that a trailer used to transport wood was placed in the northwest corner of the subject property on October 22, 2001. He testified that he maintains a log of the maintenance activities and the trailer has not moved from the subject property since its last use in December 2001. Ms. O'Rourke testified that when she inspected the property she did not see the trailer nor observe that access to the property is through a gate which opens into an alley behind the subject property. She testified that she did not observe any change to the property from

the date of her first inspection to the last inspection which was November 27, 2002. Mr. Cooke testified that beginning in June 2002 other landscaping equipment was stored on the subject property. In addition, a handicap ramp was stored on the property as of September 2002.

ANALYSIS

The issue before the court is whether Plaintiff's use of the subject property meets the statutory requirements for exemption from property tax. The parties agree that Plaintiff, a school, owns the subject property. Plaintiff filed a timely application for exemption for the tax year beginning July 1, 2002. ORS 307.162; ORS 308.007(1)(c).¹ Plaintiff applied for exemption under ORS 307.145. ORS 307.145(1) provides:

"If not otherwise exempt by law, upon compliance with ORS 307.162, the child care facilities, schools, academies and student housing accommodations, owned or being purchased by incorporated eleemosynary institutions or by incorporated religious organizations, **used exclusively** by such institutions or organizations **for or in immediate connection with educational purposes**, are exempt from taxation."

(Emphasis added.)

Plaintiff alleges that it used the subject property "exclusively" for educational purposes. In order to qualify for exemption for the tax year beginning July 1, 2002, Plaintiff's use of the property must meet the statutory requirements prior to that date. Plaintiff submitted evidence to the court that the property was used and continues to be used by students enrolled in the Peace and Conflict Studies 230 course as part of an educational experience in wood-chopping. That use appears to meet the statutory requirement.

Plaintiff's other uses of the subject property do not meet the statutory requirement of

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

exclusive use for educational purposes. Plaintiff testified that other organizations use the wood for school sponsored events. However, there is no evidence that the subject property other than serving as a storage facility for the wood was used in these school sponsored events for educational purposes. Plaintiff's decision to permit anyone to take the wood, free of charge, does not satisfy the statutory requirement of exclusive use by Plaintiff for an educational purpose. Further, Plaintiff stored a trailer on the subject property. According to Mr. Cooke it "has remained parked there since its last use, actually in December 2001." (Mr. Cooke's email dated Wednesday, Feb 26, 2003.) The court is doubtful that the trailer which has not been used for over two years is serving "for or in immediate connection with educational purposes." ORS 307.145(1).

Based on the evidence the court concludes that Plaintiff failed to exclusively use the subject property for educational purposes. Unfortunately, Plaintiff's request for exemption under ORS 307.145 must be denied.

CONCLUSION

Now, therefore,

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

Dated this _____ day of April, 2003.

JILL A. TANNER
PRESIDING 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 JILL A. TANNER ON APRIL 24, 2003. THE COURT FILED THIS DOCUMENT ON APRIL 24, 2003.