

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Property Tax

CATHLEEN D. LLOYD, )  
 )  
 Plaintiff, ) TC-MD 021160F  
 )  
 v. )  
 )  
 MULTNOMAH COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION AND JUDGMENT**

Plaintiff appeals the value of her manufactured home for tax year 2001-02. A telephone trial was held on April 16, 2003. Cathleen Lloyd appeared for herself. Leslie Cech appeared for Defendant. Shannon Livingood appeared as a witness for Plaintiff. The property is listed in the Multnomah County Assessor's records as Account M486643. At the status conference held on February 24, 2003, the court denied Defendant's motion to convert to a standard designation case.

**STATEMENT OF FACTS**

In 1999, Plaintiff purchased a Fleetwood brand manufactured home. She placed the home at Hayden Island Mobile Home Community. Shortly after moving into the home, there was a water leakage problem. Fleetwood repaired the home, removing floor insulation and six walls. Fleetwood also ripped up carpet when making the repairs. Unfortunately, those repairs did not solve the problem. Plaintiff testified that the area below the house was full of water for two years. Water wicked up the walls and warped the floors. Plaintiff's belief is that Fleetwood's repairs caused the mold growing from the initial water problem to become airborne. Plaintiff became ill after the home was repaired and spent nine days in intensive care. Plaintiff continues to suffer from headaches, short term

memory loss and other maladies. Plaintiff's husband and children also suffer from ongoing health problems. As a result of their long-term exposure to the mold spores, Plaintiff and her family developed sensitivities to the mold. These sensitivities make it particularly dangerous for them to return to the property.

Because there is no one living at the property, it is subject to break-ins. When Plaintiff entered the home to clean up after one such break-in, she was ill for three weeks. At least two professionals have tested the home for mold presence. A certified industrial hygienist noted the presence of penicillium, aspergillus vericolor, and stachybotrys cartarum. (Ptf's Ex Jun 14, 2002, Ltr at 1.) All three of these molds are potentially toxic. Plaintiff testified that her family cannot even remove any items from the home because of concerns about cross-contamination. Plaintiff's view is that the home cannot be remediated because the home is so toxic.

Because Plaintiff is in the process of suing Fleetwood, Fleetwood has not given Plaintiff any information regarding costs to cure or any formal determination that the home must be destroyed.

Defendant does not dispute that the home, in its present state, is not livable. Cech pointed out that, according to the abandonment notice issued by the park, the home is worth at least \$8,000. (See Ptf's Ex, Abandonment Notice at 1.) Defendant also pointed out that notwithstanding the evidence relating to the existence of mold in the home, Plaintiff introduced no objective evidence relating to the cost to cure the problem, the value of the home as contaminated, or the need to destroy the home. The only evidence relating to the need to destroy the home came from Plaintiff's testimony. Without such evidence, Defendant was unwilling to reduce the value of the property.

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### **ANALYSIS**

Plaintiff testified and provided ample evidence of the serious mold problems in her home. She also testified and provided evidence of serious health issues that arose after living in the home. The one thing she was unable to produce was objective evidence of the need to destroy the home or any costs related to remedying the problems.

In any proceeding before the Magistrate Division, the party seeking affirmative relief bears the burden of proof. ORS 305.427 (2001). The court cannot base its decision on conclusory statements. Plaintiff did not submit any evidence relating to costs to support her case. She did not meet her burden of proof.

### **CONCLUSION**

Plaintiff appears to be an honorable individual who is laboring under very difficult circumstances. However, without some discrete cost information, the court is unable to grant relief. Now, therefore,

IT IS ADJUDGED AND DECREED that Defendant's motion to convert to a standard designation case is denied.

IT IS FURTHER ADJUDGED AND DECREED that Plaintiff's appeal is denied.

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

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SALLY L. KIMSEY  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON  
JULY 10, 2003. THE COURT FILED THIS DOCUMENT ON JULY 10, 2003.**