

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

RICHMOND CHURCH OF GOD aka	)	
Richmond Community Church,	)	
	)	
Plaintiff,	)	TC-MD 021322F
	)	
v.	)	
	)	
MULTNOMAH COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appealed Defendant's denial of Plaintiff's application for property tax exemption for the 2002-03 tax years. Plaintiff also appealed asking for an exemption for the 1997-98 through 2001-02 tax years. Defendant moved to dismiss tax years 1997-98 through 2001-02. The property is listed as Account R184117 by the Multnomah County Assessor. A trial in the above-entitled matter was held in Portland on April 22, 2003. Donald LaFont (LaFont), Treasurer, appeared for Plaintiff. Doug Boldt, Senior Pastor, appeared as a witness for Plaintiff. Steve Skinner, Tax Exemption Specialist, appeared for Defendant.

**I. STATEMENT OF FACTS**

Plaintiff's church is located on southeast Division Street at 40<sup>th</sup> Avenue. Next door to the church is a small building used for church offices. The property at issue is across 40<sup>th</sup> Avenue from the church offices on the corner of southeast 40<sup>th</sup> Avenue and Caruthers Street. It is a single family residence, used as a parsonage by Pastor Boldt and his family.

The home was constructed by members of the church during the 1950s. It was intended to be the parsonage for the senior pastor and was so used until sometime during

the 1980s. The senior pastor at that time purchased a home in order to build equity for his retirement. During the property's initial use as a parsonage, it was exempt from property tax. During the period of time that it was not used as a parsonage it was rented and property taxes were paid. In August 1996, Pastor Boldt became senior pastor. When he and his family moved onto the property it became a parsonage once again. Plaintiff has periodically applied for an exemption from property taxation since then. Defendant has consistently denied Plaintiff's request. Defendant denied Plaintiff's most recent request for exemption on December 2, 2002.

Pastor Boldt, his wife and their five children currently live in the parsonage. He does not maintain a home office. Instead his office is in the church-owned building across the street. The majority of his work is done there. Pastor Boldt and LaFont both testified as to the importance of the availability of Pastor Boldt at any hour. Two examples given were the occasional need for immediate counseling and access to the "giving room." The "giving room" includes such items as food and clothing which is given to those in need.

In addition to the parsonage's use as a residence, it is also regularly used for church-related entertaining, counseling of parishioners, and bible study. Counseling of parishioners primarily occurs at the church-owned building across the street. The periodic counseling that occurs at the parsonage is for those parishioners that need a more informal environment. Although Pastor Boldt and LaFont testified about the types of activities that occurred at the parsonage, neither testified with specificity as to the frequency of those activities.

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## II. ANALYSIS

This case presents two issues. The first issue relates to Defendant's motion to dismiss tax years 1997-98 through 2001-02. The second issue is whether the parsonage should be exempt pursuant to ORS 307.140.<sup>1</sup>

### Motion to Dismiss

In order for property to be exempt from taxation, an application must be filed that complies with the requirements of ORS 307.162. ORS 307.140. Among those requirements is one that states:

**"Before any real or personal property may be exempted from taxation under ORS \* \* \* 307.140 \* \* \* for any tax year, the institution or organization claiming the exemption shall file with the county assessor, on or before April 1 of the assessment year, a statement verified by the oath or affirmation of the president or other proper officer of the institution or organization, listing all real or personal property claimed to be exempt and showing the purpose for which such property is used."**

ORS 307.162(1) (emphasis added). A statement does not need to be filed each year as long as ownership of the property does not change. ORS 307.162(1)(a). In order for property to be exempt from taxation for any particular tax year, the exemption request must be filed "on or before April 1 of the assessment year." *Id.* In other words, an exemption request filed on April 1, 2003, would be effective for tax year 2003-04, which begins on July 1, 2003. The language quoted and emphasized above does not permit an exemption to be retroactively granted. Supporting this analysis is the language of ORS 307.162(2) which allows the exemption request to be filed as late as December 31 of the assessment year upon payment of a late fee. The relevant portion of that statute states that "a

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

statement may be filed under this section on or before December 31 of the assessment year **for which exemption is first desired.**”

ORS 307.162(2) (emphasis added). The only time an exemption may be retroactively granted is when there is an addition or new improvements to an already exempt property. See ORS 307.162(3). Had the legislature chosen to make exemption requests retroactive it would have expressly stated its intent as it did in ORS 307.162(3).

As noted above, Plaintiffs have periodically applied for an exemption from property taxation for the subject property. Their first appeal to this court was on December 30, 2002. Taxpayers may appeal the act of a county assessor that denied a request for exemption pursuant to ORS 305.275(1)(a)(C). However, such an appeal “shall be filed within 90 days after the act, omission, order or determination becomes actually known to the person, but in no event later than one year after the act or omission has occurred, or the order or determination has been made.”

ORS 305.280(1). Plaintiff’s appeal relating to tax years 1997-98 through 2001-02 was filed beyond the period granted by the statute. The court finds that it must dismiss the appeal as it relates to tax years 1997-98 through 2001-02.

#### Merits of Claim

This case bears striking similarities to *Washington County v. Dept. of Rev.*, 11 OTR 251 (1989). In *Washington County*, the Department of Revenue determined that a church parsonage was exempt from taxation. Washington County appealed that determination except that it agreed that the pastor’s study, used exclusively for church purposes, was exempt from taxation. *Id.* at 252. The rest of the parsonage, in addition to

its use as a residence, was “used at times for recreational and educational purposes related to the congregation.” *Id.* The court found that, although it was a close question, “the subject property was ‘primarily’ used as a home for the pastor and his family. The fact that some parts of the parsonage are used for purposes connected with the work of the church do not make it a building used primarily for the benefit of the church.” *Id.* at 254-55.

After the court’s decision in *Washington County*, the Department of Revenue promulgated an administrative rule that sets forth exemption guidelines for parsonages and caretaker residences. That rule states that “[a] parsonage or caretaker residence is considered primarily a residence even though incidental religious use may occur there. A parsonage or caretaker’s residence is totally taxable unless it meets the criteria established in OAR 150-307.140.” OAR 150-307.140(4)(1) (1991). The rule goes on to state that:

“(2) The following activities are examples of those which do not qualify the residence for an exemption:  
“(a) Living close to the church to deter vandalism,  
“(b) Opening and closing the church daily,  
“(c) Living close to the church for convenience sake or,  
“(d) Required living quarters for caretaker or pastor’s family which do not meet conditions in OAR 150-307.140.”

OAR 150-307.140(4)(2) (1991). Some of the testimony related to the importance of the senior pastor’s availability at any time. The court equates that testimony to a convenience argument that is specifically addressed in the administrative rule quoted above as not being a qualifying activity.

Other testimony related to bible study, counseling and church-related entertaining that occurred at the parsonage. The relevant administrative rule states that

“[t]he property for which a religious organization claims an exemption must be reasonably necessary to accomplish the religious objectives of that organization.”

OAR 150-307.140(1)(b) (1986). Just as in *Washington County*, the court finds that the church-related activities that occurred at the parsonage were not “reasonably necessary to accomplish the religious objectives” of Plaintiff. OAR 150-307.140(1)(b) (1986). This is particularly so since for a number of years, the senior pastor did not live at the parsonage.

### III. CONCLUSION

The subject property is primarily a residence for the senior pastor and his family. While there is church-related use that occurs at the property, that use does not negate the property’s primary use as a residence. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff’s appeal is dismissed as to tax years 1997-98 through 2001-02.

IT IS FURTHER DECIDED that Plaintiff’s appeal is denied at to tax year 2002-03.

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

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SALLY L. KIMSEY  
MAGISTRATE

**IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. 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 SALLY L. KIMSEY ON JULY 24, 2003. THE COURT FILED THIS DOCUMENT ON JULY 24, 2003.**

