

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

MARTINA M. WYATT,)
)
 Plaintiff,) TC-MD 021341A
)
 v.)
)
 DESCHUTES COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff, Martina M. Wyatt, has appealed the assessment of Deschutes County property, identified by Account R 1-004 181123C 2800, for the 1999-2000, 2000-2001, and 2001-02 tax year. Plaintiff appeared and made her arguments. Defendant, the Deschutes County Assessor, responded, and was represented by Theresa Maul.

STATEMENT OF FACTS

In an appeal filed with the court on December 31, 2002, Plaintiff explained that her property is unimproved land in Bend. In the context of trying to sell the property Plaintiff learned the land was unsuitable for any on-site sewage disposal system in October of 2000. For the 1999-2000, 2000-2001, and 2001-02 tax years, the property's respective real market values were \$74,200, \$74,940, and \$92,175. During these same years the respective assessed values were \$45,093, \$46,445, and \$47,838.

Defendant agreed that the property was denied a permit for an on-site septic disposal system in October of 2000, and discussed a sale of similar unbuildable property in July of 2000 for \$70,000.

ANALYSIS

This court cannot give Plaintiff the relief that she requests. This appeal is not a timely appeal from the order of the board of property tax appeals, under ORS 305.275 and ORS 305.280. Instead, it is a request that the court review tax years otherwise closed. The only applicable statute is ORS 305.288.

The provisions of ORS 305.288 are not generous with respect to land that has not been

improved with a residence. As to property of this character, relief is only available if there is a "good and sufficient cause" explaining why no appeal was filed during the tax years for which a subsequent review is now being sought. ORS 305.288(3).¹ That Plaintiff learned in October of 2000 that her property was denied a permit for a septic system does not qualify as good and sufficient cause under the statute.

ORS 305.288(5)(b).

Although the court does not have the ability to order the relief that Plaintiff has requested, other considerations are worthy of mention. One is that it may well be that Plaintiff has no real injury in this case. Plaintiff's tax burden is calculated, not from the real market value of the property as carried on the roll, but instead by the land's assessed value. A comparison of the assessed values of this property to the selling price of the unbuildable property presented by Defendant supports the conclusion that Plaintiff's tax burden is consistent with the assessment. Another point is that although the court lacks the ability to order the relief requested by Defendant, another entity does. As was explained at trial, the Department of Revenue has the power to order relief, under ORS 306.115, in these circumstances.

CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal must be dismissed.

Dated this _____ day of June, 2003.

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 JUNE 25, 2003. THE COURT FILED THIS DOCUMENT ON JUNE 25, 2003.

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