

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

JACK C. UTTERBACK and DIXIE A. UTTERBACK,	)	
	)	
Plaintiffs,	)	TC-MD 030001A
	)	
v.	)	
	)	
CROOK COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs, Jack and Dixie Utterback, have appealed the assessment of their Crook County property, identified by Accounts 1899 and 72520, for the 1997-98 through 2002-03 tax years. The Utterbacks appeared and made their arguments. Defendant, the Crook County Assessor, responded.

**STATEMENT OF FACTS**

Although the Utterbacks' Complaint presents a claim that their property was assessed in a discriminatory fashion and the assertion that their property should be exempt due to religious and humanitarian aid and the presence of a family burial plot, their arguments before this court were based on U.S. Patent No. 192073, recorded October 14, 1997.

Referencing various Supreme Court cases and abstracts of title and warranty deeds, the Utterbacks have concluded that their title to their property is superior to that held by the state, and that land cannot be taxed if its patent is current. Reasoning that they have not consented to being taxed on the value of their land, the Utterbacks argue that property taxes are void, and that to enforce property taxes under these circumstances is unconstitutional.

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## **ANALYSIS**

The court is willing to accept the Utterbacks' point that they own their land, that their title is superior to any other, and that their ownership may be traced back to a U.S. Patent. The critical conclusion, however, for purposes of resolving this appeal, is that these points establish, not that the Utterbacks are exempt from tax, but that they bear a tax burden.

ORS 307.030<sup>1</sup> unequivocally establishes that all real property within the state is taxable. The statute does not only apply to corporate property, as the Utterbacks contend. It applies, as it specifically states, to all real property located within Oregon's boundaries. If the property were still owned by the federal government, it would be exempt from tax by ORS 307.040. However, the federal government does not still own the property. Instead, the United States transferred the property to a series of owners who eventually passed it to the Utterbacks. With the property came the burden of paying its taxes. This tax burden does not interfere with the ownership interests of the Utterbacks unless the Utterbacks do not pay their taxes, in which case their ownership interest might be foreclosed upon. The collection of delinquent taxes, while it might terminate the interest of a property owner holding title through a Patent, is not unconstitutional.

## **CONCLUSION**

The Utterbacks arguments, although demonstrating considerable legal research, are simply misplaced in their conclusions. The county does have the ability to tax their

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<sup>1</sup>All references to the Oregon Revised Statutes (ORS) are to 2001.  
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property, despite the fact that its chain of title includes a U.S. Patent. Now, therefore,

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

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

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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 4, 2003. THE COURT FILED THIS DOCUMENT ON JUNE 4, 2003.**