

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

310 GARFIELD GROUP LLC,	)	
	)	
Plaintiff,	)	TC-MD 030120B
	)	
v.	)	
	)	
LANE COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

A trial was held November 18, 2003. David E. Carmichael, Attorney at Law, represented Plaintiff. David Wolf, Plaintiff's manager, testified as a witness. Bill Weeks, county appraiser, appeared for Defendant. Subsequently, written arguments were received from the parties. The record closed January 20, 2004.

At issue is the application of ORS 309.115(2)(e)<sup>1</sup> for the 2002-03 tax year.

I. STATEMENT OF FACTS

The subject property consists of 7.9 acres of industrial land and an office building located in west Eugene. The account numbers are 1418969 and 1517299. For the earlier 1999-2000 tax year, Plaintiff appealed those accounts to the Lane County Board of Property Tax Appeals (BOPTA). That resulted in Orders that reduced the properties' real market value (RMV).

Prior to the January 1, 2002, assessment date, Plaintiff demolished and removed a warehouse building from the subject tax lot. David Wolf, manager for Plaintiff, testified in detail at trial. The removal expenses were approximately \$5,100 in out-of-pocket costs. He stated the city permit was issued October 31, 2001. The permit allowed removal only; no additional new buildings or structures were later constructed. No fill

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<sup>1</sup>All references to the Oregon Revised Statutes (ORS) are to 2001.  
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soil was added. The topography was not leveled. Drainage was not improved. In his opinion, no real value was added by the demolition and removal. No specific opposing evidence was offered by Defendant.

## II. ISSUE PRESENTED

Does the removal of the building and conversion to bare land constitute new construction or an addition to the property?

## III. ANALYSIS

ORS 309.115(1) applies when there is a value correction made but no intervening appeals occur. The general rule, with few exceptions, is: “the value so entered shall be the real market value entered on the assessment and tax rolls for the five assessment years next following the year for which the order is entered.”

ORS 309.115(1). That would include adjudication through the 2004-05 tax year.

ORS 309.115(2)(e) allows for the reappraisal and adjustment of real property RMV where there has been “additions, remodeling or rehabilitation made to property.”

Here, the minimal changes made were removal of a dilapidated structure and the leveling of some soil. No substantive improvements were made or substantial value added to the overall account.

In its reply filed January 20, 2004, Plaintiff makes specific reference to the American Institute of Real Estate Appraisers, *The Dictionary of Real Estate Appraisal* (2d ed 1989). Therein, the following definitions are offered:

**“addition.** Part of a building that has been added to the original structure.”

*Id.* at 5.

**“rehabilitation.** See renovation.”

*Id.* at 250.

“**remodeling.** A type of renovation that changes property use or configuration by changing property design.”

*Id.* at 252.

“**renovation.** The process in which older structures or historic buildings are modernized, remodeled or restored \* \* \*.”

*Id.* at 253.

Clearly, those definitions contemplate more being done to land than removing an existing detrimental structure in order to constitute an addition or improvement to the account.

Under those certain facts, the limited removal of the prior structure did not constitute an exception to the general adjudicated value scheme found at ORS 309.115.

Defendant’s official records reveal there was no trending amount applied between the tax years 2001-02 and 2002-03 for this character of property. ORS 309.115(2)(a). Therefore, the amounts mandated for each year are identical. The following changes for 2002-03 are due pursuant to Plaintiff’s claims and the proof offered at trial:

<u>Account</u>	<u>Revised RMV</u>
1418969	\$441,191
1517299	\$ 57,823

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#### IV. CONCLUSION

IT IS THE DECISION OF THE COURT that this appeal is granted. The account values shall be corrected in accordance with the above-findings. Any refunds shall be issued with statutory interest thereon.

Dated this \_\_\_\_ day of March, 2004.

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JEFF MATTSON  
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 JEFF MATTSON ON MARCH 22, 2004. THE COURT FILED THIS DOCUMENT ON MARCH 22, 2004.**