

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

LANDSCAPE PLANT DEVELOPMENT)
CENTER,)
) TC-MD 030160A
Plaintiff,)
)
v.)
)
MARION COUNTY ASSESSOR,)
) **DECISION**
Defendant.)

Plaintiff has appealed, for the 2002-03 tax year, the consequences of the disqualification of its property, identified by Account R10360, from special assessment as lands in farm use. Plaintiff was represented by its executive director, Howard Pellett. Defendant appeared through Richard Kreitzer, of its staff.

I. STATEMENT OF FACTS

The property at issue consists of some 24.17 acres in an exclusive farm use zone. It has, at all times relevant to this appeal, been used exclusively for farm use. The use of the land is not the crux of this appeal. Instead, the issue is the character of Plaintiff.

Plaintiff was originally organized for the purpose of farming for an economic gain. However, for the year at issue, Plaintiff reformed its purpose to become an Internal Revenue Code Section 501(c)(3) non-profit corporation, with the intention of developing superior landscape plants for the nursery industry. In this capacity Plaintiff asked for, and received, an exemption from Defendant under ORS 307.130.¹

Defendant, as a consequence, disqualified the subject property from special assessment, reasoning that this was required as a consequence of the land changing from

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.
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a status of having its property taxes deferred to one where the land would be exempt from tax. Defendant has since revised its opinion to recommend that the 17 acre cornfield be specially assessed at its farm use value, that 1.75 acres of lawn should be taxed at market value, and that the balance of the property, at some 5.42 acres, should be exempt.

II. ANALYSIS

The law is that "[t]axation is the rule and exemption from taxation is the exception." *Dove Lewis Mem. Emer. Vet. Clinic v. Dept. of Rev.*, 301 Or 423, 426, 723 P2d 320 (1986). Other authorities hold that "the taxpayer must present facts that prove the actual qualifying use of each and every portion of the property claimed to be exempt before such portions are entitled to exemption." *Golden Writ of God v. Dept. of Rev.*, 300 Or 479, 484, 713 P2d 605 (1986).

Defendant's recommendation is consistent with this result. Plaintiff's appeal is granted to this extent.

III. CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is granted.

Dated this _____ day of September, 2003.

SCOT A. SIDERAS
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 SCOT A. SIDERAS ON SEPTEMBER 17, 2003. THE COURT FILED THIS DOCUMENT ON SEPT. 17, 2003.
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