IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

SHARRONNE VINCENT,	)	
	)	
Plaintiff,	)	TC-MD 030843C
	)	
v.	)	
	)	
COLUMBIA COUNTY ASSESSOR,	)	
	)	
Defendant.	)	**DECISION**

Plaintiff appeals a clerical error correction made by Defendant and further requests a retroactive grant of farm use special assessment. The August 4, 2003, case management conference was converted to a trial. Trial resumed September 25, 2003. Plaintiff appeared on her own behalf. Tom Linhares (Linhares), Columbia County Assessor, appeared for Defendant.

I. STATEMENT OF FACTS

Plaintiff purchased the subject property as a six-acre bare lot in October 1995. At about the same time, Plaintiff improved the lot with on-site developments (well, septic, driveway, power) and installed an old manufactured home. A new manufactured home was delivered to Plaintiff's property in June 1996 and set-up sometime thereafter. Both structures were added to the tax rolls for the 1997-98 tax year, which had an assessment date of July 1, 1997. ORS 308.210(1) (1995).[1] The original structure which Plaintiff had converted to a home office, was subsequently destroyed by fire in January 1998. Plaintiff's tax records were destroyed in that fire.

Defendant's clerical error correction increases Plaintiff's assessed value (AV) for

[1] Unless otherwise noted, all references to the Oregon Revised Statutes (ORS) are to 2001.

tax years 1997-98 through 2002-03, inclusive. Defendant's December 17, 2003, notice explained the correction as follows:

> "It has come to my attention that when Measure 50 was implemented in 1997 the value of the manufactured structure that was moved on to your property in 1996 increased the real market value of the above referenced account however, the assessed value was accidentally not increased."

According to that notice, Defendant increased the AV on the order of $60,000 to $70,000 per year for the years affected. Linhares explained that the real market value (RMV) was increased in 1996 to reflect the addition of the manufactured homes but that the AV was based only on the land value and the value of the on-site developments. The increase in the AV was derived by taking the improvement RMV from the rolls and multiplying that number by the changed property ratio.[2]

Plaintiff insists that she filed an application for farm use special assessment in late 1996 or 1997 after learning about the program from a gentleman interested in harvesting holly from her property. Defendant has no record of receiving that application and the property was not specially assessed as farmland. Plaintiff does not have a copy of the application; if one was kept, it was destroyed in the fire. Plaintiff's AV dropped from $118,000 to $45,900 in 1997 (1997-98 tax year). Plaintiff filed federal Schedule F's reporting profit or loss from farming for 1998 through 2002. Copies of those schedules were provided to the court. Plaintiff reports gross income of $975 in 1999, $2,419 in 2000, $369 in 2001, and $1,110 in 2002. There was no income in 1997 or 1998. Plaintiff did file an application for special assessment on April 1, 2003, after learning that the

[2] The "changed property ratio" is "[t]he ratio of average maximum assessed value to average real market value." OAR 150-308.149(3) (January 2000); *see also* ORS 308.156(5). The purpose of ratio is to extend the benefits of Measure 50 to new property and property added to the rolls because of a clerical error or an initial omission, etc. Measure 50 amended the Oregon Constitution and rolled back property values for tax purposes in 1997 to 90 percent of the property's roll value in 1995. Or Const, Art XI, § 11(1)(a).

property was not being taxed as farmland.

/ / /

/ / /

II. ANALYSIS

A. *Clerical Error*

The tax rate is applied to AV. AV is the lesser of RMV or maximum assessed value (MAV). ORS 308.146(2). Absent changes to the property, a property's MAV each year is the greater of 103 percent of the property's AV from the prior year or 100 percent of the property's MAV from the prior year. ORS 308.146(1). When new property is added, MAV is determined pursuant to ORS 308.153. *See* ORS 308.146(3). That statute provides that the MAV for the existing property, as determined under ORS 308.146, is added to the product of the RMV of the new property multiplied by the ratio of average MAV over the average RMV for the assessment year. ORS 308.153(1). In this case Defendant only completed the first step in the 1997-98 tax year, increasing the prior year's MAV by 3 percent.[3] The ratio'd value of the two homes was not added to that base MAV. That error was carried forward through tax year 2002-03. Defendant discovered the error in 2003 and made the correction pursuant to ORS 311.205. That statute authorizes the assessor to make clerical error corrections. A clerical error is defined as:

> "an error on the roll which either arises from an error in the ad valorem tax records of the assessor * * * or which is a failure to correctly reflect the ad valorem tax records of the assessor * * * and which, had it been discovered by the assessor * * * prior to the certification of the assessment and tax roll of

[3] The value derived from that first step is sometimes referred to as the base MAV because it is the normal MAV calculation done for all property and is a simple mathematical calculation; to it is added the MAV of new property, which requires a market value determination, and an adjustment utilizing the statutory ratio.

> the year of assessment would have been corrected as a matter of course, and the information necessary to make the correction is contained in such records."

ORS 311.205(1)(a).

/ / /

Although Plaintiff would like Defendant's correction to be invalidated by the court, she concedes the law apparently allows such corrections. Furthermore, Plaintiff has challenged Defendant's corrections but has introduced no evidence to show that the correction should not have been made or that it was done incorrectly. Plaintiff must prove her claim by a preponderance of the evidence. ORS 305.427. The court nonetheless reviewed the assessed values for 1995 through 1998 both as originally placed on the rolls and as adjusted by the clerical error corrections. The corrections appear to carry out the intent of the law and there are no apparent errors. Plaintiff explained that she believed the AV dropped so significantly in 1997 (from $118,000 to $45,900) because her application for farm use special assessment had been approved. That viewpoint is understandable, but has no bearing on whether the correction complied with the law. Plaintiff's real concern is that she feels she is being penalized for not filing for farm deferral. There is no evidence that is the case; rather, Defendant is correcting a mistake it made to extract additional taxes Plaintiff should have paid each year the homes escaped taxation.

B. *Farm Use Special Assessment*

Farm use special assessment for land not zoned exclusive farm use requires an application on or before April 1. ORS 308A.077. The same requirement existed in 1996 and 1997. *See* ORS 308.375 (1995). Although Plaintiff contends she filed an application in 1996 or 1997, Defendant has no record of receiving the application and Plaintiff does not have a copy. Plaintiff is not certain she ever had a copy and opines that if she did, it

was destroyed in the fire. Furthermore, Plaintiff argues her application was never denied; a point with which Defendant agrees. Plaintiff apparently believes the lack of a denial proves she filed, which of course in not necessarily the case. Plaintiff did begin filing federal Schedule F's in 1998, which is a requirement for special assessment, but that form must be filed for income tax purposes regardless of whether a taxpayer receives special assessment on state property taxes. Thus, the federal schedules do little to support Plaintiff's claim.

Defendant adds that even if Plaintiff had filed the application when she claims, it would have been denied because an initial application requires a demonstrated history of three years of income from farming. The income requirement was part of the definition of farm use and was found in ORS 308.372(1)(a) (1995). The specific amount of income one must generate is set forth in ORS 308.407(4) (1995), and for six acres it was a gross income of at least $650. That same amount applies under current law. ORS 308A.071. Thus, if the court were to consider Plaintiff's request for retroactive special assessment, as Plaintiff requests, the first year of eligibility would be 2003, because it was not until that point that Plaintiff had three years of qualifying farm income and had filed Schedule F's (1999, 2000, and 2002). Plaintiff again interjects that she was never denied special assessment, but that argument misses the point; the bottom line is that by statute Plaintiff was not entitled to farm use special assessment in 1997 because she lacked the requisite income history and consequently it matters not whether Plaintiff did or did not file an application. In either case she did **not** qualify for special assessment. The court rejects Plaintiff's claim that she is being penalized for not having farm deferral. The reason Plaintiff appealed is because her taxes were increased as a result of the clerical error correction and that correction was made because the values of the manufactured homes

were not included in the calculation of MAV. Plaintiff was not and is not entitled to farm use special assessment for tax years 1997-98 through 2002-03.

/ / /

/ / /

III. CONCLUSION

After a careful review of the evidence, the court concludes that Plaintiff has failed to show any irregularities in Defendant's clerical error correction. The court finds further that Plaintiff is not entitled to retroactive farm deferral as requested in the Complaint. Now, therefore,

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

Dated this _____ day of November, 2003.

_____
DAN ROBINSON
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 DAN ROBINSON ON NOVEMBER 28, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 28, 2003.