

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

ALDERWOOD 2ND ADDITION)	
WATER/JAMES ORTLIEF,)	
)	
Plaintiff,)	TC-MD 031091A
)	
v.)	
)	
LANE COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appealed Defendant's decision to not exempt property, identified as Account 1648912, from tax for the 2003-04 tax year. Plaintiff appeared through one of its officers, James J. Ortlief. Defendant was represented by Joyce Kehoe, of its staff.

I. STATEMENT OF FACTS

Plaintiff is a nonprofit water association in Florence, Oregon. It serves nine members. For the past 40 years it has paid no tax. Defendant did not grant an exemption for the 2003-04 tax year because no application was filed to exempt the property until November 3, 2003.

II. ANALYSIS

ORS 307.210¹ exempts, under certain conditions, the property of nonprofit water associations. The statute requires, at ORS 307.210(4), that the exemption be requested “on or before April 1 preceding the tax year for which the exemption is being claimed.” There is a reason for that. The property is not exempted just because the water association is not operated for profit. The water association also must not exceed certain limits, defined in terms of its number of members or annual volume of water, in its service to commercial establishments.

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.
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The best way for Defendant, and other assessors, to learn of a water association's services to commercial and noncommercial users is for the water association to directly tell them. That is the choice made by the legislature. It is not a disproportionate burden relative to the benefit of exempting property from tax to ask that water associations comply with this requirement.

Plaintiff makes the point that disqualification is a harsh result for a small water association that has historically been exempted from tax. That consideration was recognized by the legislature when it created ORS 307.475, which gives the Department of Revenue the ability, under certain conditions, to excuse an organization's failure to make a timely filing. That point was explained by Defendant in one of its mailings to Plaintiff.

III. CONCLUSION

The legislature has chosen to put certain limits on the exemption of nonprofit water associations. One of those requirements is that the water association make an annual application. The court does not have the ability to overturn that reasonable legislative choice. Plaintiff is urged, if it has not already done so, to file its application on or before April 1, 2004, to secure its exemption for other tax years. Now, therefore,

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

Dated this _____ day of March 2004.

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 MARCH 22, 2004. THE COURT FILED THIS DOCUMENT ON MARCH 22, 2004.