

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

SHARON A. RUTH,)	
)	
Plaintiff,)	TC-MD 031127F
)	
v.)	
)	
LANE COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant's motion to dismiss,¹ filed with its Answer January 12, 2004, requesting that the Complaint be dismissed.

Defendant disqualified Plaintiff's property from farm use special assessment June 26, 2003.² Plaintiff filed this appeal on December 16, 2003. Pursuant to ORS 305.280(1),³ Plaintiff had 90 days from the date of the disqualification to file an appeal with this court. Plaintiff did not timely file. Now, therefore,

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¹ The court is treating Defendant's request to deny the appeal as a motion to dismiss.

² Plaintiff completed her purchase of the property in June 2003. Based on the information given by Plaintiff at the case management conference February 17, 2004, it appears that Plaintiff was misled by the prior owner and possibly the prior owner's real estate agent. Plaintiff related that the prior owner extolled the virtues of the lower property taxes due to the farm use special assessment status of the property. Given the statutory process for disqualifying property from farm use special assessment, there is no doubt that the prior owner had knowledge of the pending disqualification.

When Plaintiff made her written offer to purchase the property, the prior owner was required to provide her with either a written disclaimer that he made no warranties or representations regarding the property or a seller's property disclosure statement. ORS 105.465(2). The seller's disclosure statement includes the following question: "Are you aware of **any** government * * * **notices that would affect the property?**" ORS 105.465(2), question I.1.F. (emphasis added).

³ All references to the Oregon Revised Statutes (ORS) are to 2001.

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this _____ day of February, 2004.

SALLY L. KIMSEY
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 SALLY L. KIMSEY ON FEBRUARY 26, 2004. THE COURT FILED THIS DOCUMENT ON FEBRUARY 26, 2004.