

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

CAVES CHRISTIAN FELLOWSHIP,)
JAMES T. MIDDLETON,)
and JEREMY NEHF,)
)
Plaintiffs,) TC-MD 040035A
)
v.)
)
JOSEPHINE COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

Plaintiffs appealed the denial of a religious exemption requested as to property, identified by Account R329408, for the 2003-04 tax year. Plaintiffs appeared through Jeremy Nehf, Pastor of the Fellowship. Michael Schneyder presented the case for the defense.

I. STATEMENT OF FACTS

On or about May 1, 2003, Caves Christian Fellowship rented the subject property to use as their church. The lease does not mention property taxes.

On July 30, 2003, an Application for Real and Personal Property Tax Exemption was filed as to the property. On August 5, 2003, the application was denied. The explanation was that the application did not include current copies of the organization's articles and bylaws, no fee was paid, and a copy of the lease was not part of the application.

No appeal was filed in this court until January 29, 2004.

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II. ANALYSIS

The court will not analyze the timeliness of Plaintiffs' acts following Defendant's denial of the application for exemption. The best explanation as to why this property cannot receive the requested exemption is in the terms of the lease of the premises.

Churches are often, but not always, exempt from property tax. ORS 307.140¹ exempts, upon compliance with ORS 307.162, property owned or being purchased by a religious organization. That statute will not exempt the property at issue here. Those are premises being leased by Plaintiffs.

Property that is leased by a church may also be exempt. The relevant statute is ORS 307.112. However, it is required, as an indispensable element, that it be expressly agreed within the lease that the rent payable by the church reflect the savings below market rent resulting from the exemption from taxation.

The lease agreement does not contain such a clause. Without such language the property cannot be exempted from taxation.

III. CONCLUSION

The lease is insufficient to exempt the property. Now, therefore,

IT IS ADJUDGED 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.

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.
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