

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

THE DAVID Z. MUNKS AND S. LANETTE)	
MUNKS FAMILY TRUST,)	
DAVID Z. MUNKS, TRUSTEE,)	
and S. LANETTE MUNKS, TRUSTEE)	
)	
Plaintiffs,)	TC-MD 040117F
)	
v.)	
)	
DESCHUTES COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND GENERAL JUDGMENT

This matter is before the court on its own motion to dismiss the above-entitled matter because it fails to present a justiciable controversy. The court discussed its motion with the parties during the case management conference held May 10, 2004.

Plaintiffs appeal the 2003-04 real market value of the land portion of its property, which is identified as Deschutes County Assessor's Account 203811. After an appeal to the board of property tax appeals, the real market value of the land was reduced from \$243,300 to \$233,250.¹ Plaintiffs claim the real market value of the land was no more than \$199,500 as of January 1, 2003.

The total **assessed** value of the property for tax year 2003-04 was \$393,389. Plaintiffs are seeking a real market value of \$199,500 for the land. This asserted value, added to the real market value of the improvements, is greater than the property's assessed value.² Even if Plaintiffs should succeed in its claim, it would be entitled to no

¹ The real market value of the property, including improvements, was reduced from \$707,670 to \$563,764.

² The real market value of the improvements, \$393,389, added to the asserted real market value of the land, \$199,500, totals \$592,889.

relief. The court finds it has not been presented with a justiciable controversy and must dismiss the case.

A justiciable controversy is a matter that is appropriate for judicial review. The term refers to a “real and substantial controversy which is appropriate for judicial determination, as distinguished from [a] dispute or difference of contingent, hypothetical or abstract character.” *Black’s Law Dictionary* 865 (1990 6th ed). A justiciable controversy does not involve a dispute that is purely academic or moot.

Plaintiffs present a case that lacks a remedy. Consequently, the case is not appropriate or ripe for judicial review. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal is dismissed.

Dated this _____ day of May 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 MAY 12, 2004. THE COURT FILED THIS DOCUMENT MAY 12, 2004.