

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

DOUGLAS C. McKIRDIE,	)	
	)	
Plaintiff,	)	TC-MD 040136A
	)	
v.	)	
	)	
LINCOLN COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appealed the assessment of property identified as Account R430313 for the 2003-04 tax year. A telephonic trial was held April 26, 2004, at 10:00 a.m. Plaintiff appeared and presented his case. Deane Perkins represented Defendant.

I. STATEMENT OF FACTS

As of January 1, 2003, Plaintiff's property, a lot improved with only a septic system, was listed for \$79,000. Plaintiff subsequently purchased the property for \$55,000.

Despite the fact that the lot already had a septic system, the county sanitarian subsequently denied Plaintiff permission to construct a dwelling on the property. Plaintiff has since hired a sewage-disposal consultant and is attempting to secure the necessary variance to construct a dwelling on the property.

The board of property tax appeals set the assessed value and the real market value of the property at Plaintiff's purchase price of \$55,000.

II. ANALYSIS

It may be that, for a subsequent tax year, Plaintiff will have a case for reducing the real market value of the property. If no variance is granted, and Plaintiff's property is truly unbuildable, its value is probably dramatically less than the \$55,000 Plaintiff paid. On the other

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hand, the variance might subsequently be granted. If that occurs, Plaintiff's purchase price would probably be a reliable indicator of the approximate value of the property.

However, the court need not speculate on what might happen. It is enough to note that the assessment date for the year in question is January 1, 2003. ORS 308.210.<sup>1</sup> On that date, buyer, seller, and all those in the market for unimproved residential property of the character and location of the subject competed on the belief that the property could be improved with a homesite. That conclusion was supported by the fact that the property was already improved with a septic system.

The subsequent decision of the county sanitarian occurred after the dates of assessment and sale. That event certainly had an effect on value. Its effect may be short-term, if the decision of the sanitarian is overturned or measures are taken that permit a variance. The effect may be long-term, if the appeal is fruitless and the property is denied a septic permit. However, those short-or long-term events are to be measured as to subsequent tax years' assessment dates. They do not have a retroactive reach to an assessment date that has come and gone.

### III. CONCLUSION

The order of the board of property tax appeals offers all the relief that might be granted as to this property at the time. Now, therefore,

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

Dated this \_\_\_\_ day of July 2004.

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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.**

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<sup>1</sup>This statute has not been amended since 1997.  
DECISION TC-MD 040136A

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS JULY 12, 2004. THE COURT FILED THIS DOCUMENT JULY 12, 2004.**