IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

HANNA FARM,	)	
	)	
Plaintiff,	)	TC-MD 040530A
	)	
v.	)	
	)	
MARION COUNTY ASSESSOR,	)	
	)	
Defendant.	)	**DECISION**

Plaintiff appealed Defendant's correction of the roll, for the 1998-99 through 2003-04 tax years, as to property identified as Account R36926. Jerrie Hanna, Plaintiff's principle, appeared on its behalf. Defendant was represented by Scott Norris, Assistant Marion County Counsel, and Richard Kreitzer, of Defendant's staff.

I. STATEMENT OF FACTS

Plaintiff was burdened in this appeal by the recent death of Ms. Hanna's father, and the circumstance that Plaintiff had to appear without the benefit of counsel. The issue at hand is whether Plaintiff should be responsible for additional taxes as a result of Defendant's correction of the roll. The problem arose from a mobile home assessed to one tax lot when it ought to have been assessed to another. The facts are somewhat complicated.

Plaintiff at one time owned a Palm Harbor triple-wide mobile home and two tax lots, 1800 and 1900. In late 1997, Plaintiff applied to exempt the manufactured home from the Department of Motor Vehicle's ("DMV") requirements for registration and title. As is customary in those cases, Defendant received a copy of the application in early 1998. Based on the information contained in the DMV application, as confirmed by a title company, Defendant made the preliminary conclusion that the manufactured home had been placed on tax lot 1800.

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In early 1999, again according to its custom, Defendant went to the property to inspect the property and test the information in the title report and DMV application. Defendant's appraiser, as demonstrated by that individual's contemporaneous notes, reached the conclusion that the manufactured home in fact was located on tax lot 1900. Plaintiff, however, strongly insisted that the manufactured home was located on tax lot 1800. As both tax lots, 1800 and 1900, were owned by Plaintiff, Defendant decided the distinction as to which tax lot the manufactured home was actually located on would make no difference in Plaintiff's tax burden, and, as urged by Plaintiff, assessed the manufactured home as if it were located on tax lot 1800.

While Defendant's decision that the precise location of the manufactured home was not important was harmless at the time it was made, this was true only so long as Plaintiff owned both tax lots 1800 and 1900. That was not always the case. Associates Housing took tax lot 1800 through foreclosure in January 2002. On the belief that the manufactured home was on tax lot 1800, and that it had a possessory interest in the property, Associates Housing contacted Defendant to ask for a prepayment amount of taxes which would become due. Associates Housing needed this information in order to take title to the manufactured home. However, Associates Housing never made any prepayment of tax, and never took title to the manufactured home.

In November 2002, Associates Housing contacted Defendant to declare the manufactured home was not located on tax lot 1800. In that month, Defendant inspected the manufactured home and found that the dwelling was on tax lot 1900. In January and July of 2003, Defendant returned to the property and saw that the manufactured home was on tax lot 1900, disassembled into its three component pieces.

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With the change in ownership of tax lot 1800, Defendant took steps to correct the roll. Defendant took the taxes associated with the assessment of the manufactured home and transferred them from tax lot 1800 to 1900. Defendant repeatedly assured the court that in this process it was not revaluing the property in the context of correcting the roll, but only transferring the entries on the roll related to the manufactured home from one account to another. The mechanism used to accomplish this was to credit tax lot 1800 for the residential site, its onsite developments, and manufactured home which had been assessed for the 1998-99 through 2002-03 tax years, and to add these amounts to tax lot 1900 as omitted property. The total tax for these five years came to $5,364.82. Plaintiff appealed that act and sum to the court.

In order to resolve this appeal, it is necessary to make some specific findings of fact. The first is straightforward. The court finds as a matter of fact that Defendant assessed the manufactured home for all tax years at issue as if it were on tax lot 1800. The second, which is whether the manufactured home in fact was actually on tax lot 1800 or 1900, is more difficult. In this regard, the court finds Defendant's Exhibit F to be very persuasive. Exhibit F is a photograph of the manufactured home as of February 26, 1999, which shows the dwelling located next to two large oak trees. Aerial photos, Defendant's Exhibits C and D, show mature trees on tax lot 1900. There are no trees in the photo of tax lot 1800. The court finds as a matter of fact that the mobile home was located on tax lot 1900 during the years at issue.

II. ANALYSIS

The first question as to this appeal is whether Defendant's act is one which is consistent with the law. The court is of the opinion that it is. The relevant statute is ORS 311.205(1)(b)[1], which permits an assessor to make corrections to the roll so long as they are not corrections of

[1] All references to the Oregon Revised Statutes (ORS) are to 2003.

errors in value judgments. Here Defendant is not changing the value of the property. Instead, Defendant is changing the account to which that value is assessed. ORS 311.205(1)(b) specifically notes a correctable error includes, but is not limited to, the elimination to one taxpayer of property belonging to another. That is precisely what happened when the manufactured home was removed from tax lot 1800. As the statute states, it is not limited to just that type of correction. It makes sense to allow Defendant to make the balance of the correction; that is, add the manufactured home to the tax lot to which it ought properly to have been assessed.

The next question is whether Defendant's choice makes sense. Defendant, following the 1999 visit of its appraiser, was prepared to assess the manufactured home to tax lot 1900, and would have done so, were it not for the representations of Plaintiff. Defendant set aside its misgivings out of a desire to do what Plaintiff wanted, and contrary to its own judgment, assessed the manufactured home to tax lot 1800. It would now be unfair to the great majority of taxpayers which Defendant represents, to say that Plaintiff should not be responsible for property taxes on the manufactured home because Defendant accepted Plaintiff's assurances.

The court understands Plaintiff's burden. It is hard to lose a tax lot to foreclosure and now be found responsible for a portion of the property taxes associated with that account. However, the key point is that there is no proof to controvert Defendant's evidence that the manufactured home was never on tax lot 1800, but at all times was on tax lot 1900. This point became crucial when the ownership of the property changed. The tax burden associated with the mobile home had to follow the actual location of the manufactured home.

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III. CONCLUSION

The facts of this case, and Oregon law, supports Defendant's actions. Now, therefore,

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

Dated this _____ day of January 2005.

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SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON JANUARY 10, 2005 . THE COURT FILED THIS DOCUMENT ON JANUARY 10, 2005.

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.