

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Property Tax

JESS L. HILLSBERY	)	
and KATHRYN E. HILLSBERY,	)	
	)	
Plaintiffs,	)	TC-MD 040892B
	)	
v.	)	
	)	
COLUMBIA COUNTY ASSESSOR,	)	
	)	
	)	
Defendant.	)	<b>DECISION</b>

A case management conference was convened on August 27, 2004. Jess L. Hillsbery (Hillsbery) participated on Plaintiffs' behalf; Mike Simpson represented Defendant. The parties were provided an opportunity to submit additional written materials. The record closed September 10, 2004.<sup>1</sup>

I. STATEMENT OF FACTS

Plaintiffs seek the benefits of the Small Tract Forestland program for land identified as Accounts 7207-030-02400, 7302-000-01100 and 7302-000-01201 for the 2004-05 tax year. In order to receive the benefits of that program, an application must be submitted by April 1 of the tax year for which it is first sought.

Mr. Hillsbery visited Defendant's office on March 25, 2004, and obtained an application. He conversed with a clerk about the program's requirements and necessary filing details. He left

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<sup>1</sup> This case was filed as a small claims case. Because it deals with a denial of an application for the Small Track Forestland program, it is being decided as a standard case. Any additional fees for standard case designation are waived.

without submitting a completed form. The application was later postmarked April 9, 2004. That application was denied by Defendant as being untimely. Plaintiffs appeal to this court pursuant to ORS 321.706(7)<sup>2</sup> and seek relief.

## II. COURT'S ANALYSIS

ORS 321.706(3) requires an owner to apply for the special assessment by April 1 of the first assessment year. There is no evidence that Defendant refused to accept Plaintiffs' application prior to April 1, 2004. Although there may have been some confusion by all parties during Hillsbery's visit to the assessor's office in late March, there is no error or omission shown attributable to Defendant. Because Defendant did not prevent a timely filing or offer misleading advice as to the deadline, Plaintiffs cannot prevail on the basis of misinformation or estoppel.

Alternatively, Plaintiffs ask this court to reconsider their application due to reasons beyond their immediate control. That authority to excuse a late filing is beyond the specialized jurisdiction of this court. ORS 305.410.

ORS 307.475(2), commonly referred to as the "hardship statute," allows taxpayers to petition the Director of the Oregon Department of Revenue for relief when they have not filed a timely application. That statute requires that the owner demonstrate good and sufficient cause for failing to make a timely application. If they believe they so qualify, Plaintiffs must file such a request to that agency director on or before December 15 of this assessment year. In the

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<sup>2</sup>All references to the Oregon revised Statutes (ORS) are to 2003.  
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alternative, they may file an application with Defendant for the 2005-06 tax year, between January 1 and April 1, 2005. Now, therefore,

IT IS HEREBY ORDERED that the appeal is denied.

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

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JEFF MATTSON  
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 JEFF MATTSON ON NOVEMBER 17, 2004. THE COURT FILED AND ENTERED THIS DOCUMENT NOVEMBER 17, 2004.**