

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

GARY L. SCHULTZ, )  
 )  
 Plaintiff, ) TC-MD 040296A  
 )  
 v. )  
 )  
 CLACKAMAS COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

Plaintiff appealed the assessment of his house, identified by Account 01829935, for the 2000-2001 through 2003-04 tax years. A telephonic trial was held June 14, 2004, at 11:00 a.m. Plaintiff appeared and made his arguments. Defendant responded through its staff.

I. STATEMENT OF FACTS

Plaintiff presents his observation that the area of his house, as shown in the assessment and tax records of Clackamas County, is 3,180 square feet. He alleges that the area, in fact, is only 3,019 square feet. Plaintiff requests the court order a proportionate refund of \$240 in excess taxes paid for each year at issue.

Defendant identified the tax roll values in controversy as having their source in an agreement between the parties. The parties stipulated values for this property for the 2000-2001 tax year, which were carried forward for the subsequent tax years.

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## II. ANALYSIS

The court cannot grant the relief Plaintiff requests. Plaintiff did not identify the statute under which he seeks relief. The two statutes that suggest application are ORS 305.288<sup>1</sup> and ORS 311.234 (2001).

ORS 305.288 will not accomplish Plaintiff's goals. While ORS 305.288 might under some circumstances reach as far back as the 2001-02, 2002-03, and 2003-04 tax years, the first year for which Plaintiff seeks correction, the 2000-2001 tax year, is beyond its grasp.

ORS 305.288 imposes other limitations as well. ORS 305.288(1)(b) limits its corrections to differences in value equal to or greater than 20 percent. Even if Plaintiff's arguments are given every conceivable weight, the claim that his house's value is overstated due to a difference of 161 square feet would not rise above the 20 percent threshold.

ORS 311.234 (2001) also does not help Plaintiff. Although that statute addresses the difference between a dwelling's actual square footage and the square footage carried on the assessor's records, any correction under ORS 311.234 must be requested in a petition filed with the assessor by December 31 of the current tax year. ORS 311.234(2)(5) (2001). A tax year is a period of 12 months beginning July 1. ORS 308.007(1)(c). The filing date for the last year Plaintiff requested relief, the 2003-04, ended December 31, 2003.

If that explanation seems too technical, the court will offer this closing observation. Plaintiff is requesting the value of his property be lowered on the basis of an asserted error in area of some 5 percent. If the task before the court was to value a commodity whose value is more fixed to quantity, such as flour, this point would be more persuasive. However, the court is

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<sup>1</sup> Unless otherwise noted, all references to the Oregon Revised Statutes (ORS) are to 1999.  
DECISION TC-MD 040296A

satisfied that many other factors affect a house's value besides its gross area. The consensus between Plaintiff and Defendant that determined its value for the 2000-2001 tax year is a strong indicator of its value. The court will not disturb that result.

### III. CONCLUSION

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.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS JULY 30, 2004. THE COURT FILED THIS DOCUMENT JULY 30, 2004.**