

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

JAYME DUMFORD and MARIA DUMFORD,	)	
	)	
Plaintiffs,	)	TC-MD 041083A
	)	
v.	)	
	)	
LANE COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs appealed Defendant’s decision to deny their application to specially assess their property, identified as Account 1488848, as Small Tract Forestland for the 2004-05 tax year. Mr. Dumford appeared for Plaintiffs. Defendant was represented by David W. Evans, of its staff.

I. STATEMENT OF FACTS

On March 31, 2001, Plaintiffs purchased the subject property through a land sale contract. Land records as late as December 2004 identify Plaintiffs as contract purchasers.

On or about March 18, 2004, an application to assess the property as Small Tract Forestland was submitted. It was signed by only one of the Plaintiffs, Jayme Dumford. The application was denied on October 5, 2004, as not being signed by all the owners of the property.

II. ANALYSIS

There are good reasons to require all owners to sign the application for Small Tract Forestland. While the program of special assessment conveys a benefit, there are burdens attached as well. If all owners are required to sign, then no owner can complain if any of those burdens is subsequently imposed.

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However, it is not clear that this is required by either the statutes or administrative law. The relevant provisions of the Small Tract Forestland Program, ORS 321.706 and 321.709,<sup>1</sup> do not contain an explicit requirement that all forestland owners must sign the application to qualify the property. The Department of Revenue’s administrative rules also do not impose the requirement. *See, e.g.*, OAR 150-321.706(2).<sup>2</sup>

Under different circumstances the court might have to examine the character of property rights and implications of the statute and administrative rules to resolve this matter. However, in this case there is another statute that definitively decides the case. ORS 321.706(6) declares:

“An application shall be deemed approved unless, within three months of the date the application was made or before August 15 of the year in which the application was filed, whichever is later, the county assessor notifies the applicant in writing that the application has been wholly or partially denied.”

ORS 321.706(6) resolves the case. Plaintiffs applied to exempt the property on or about March 18, 2004. Defendant denied the application on October 5, 2004. Under either of the alternative provisions of the statute, the denial was too late. If there were any irregularities in the application, they were cured by the passage of time through the “deemed approved” provisions of ORS 321.706(6).

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<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2003.

<sup>2</sup> Cert. ef. July 31, 2004.

### III. CONCLUSION

Now, therefore,

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

Dated this \_\_\_\_\_ day March 2005.

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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 on March 30, 2005. The Court Filed this Document on March 30, 2005.**