

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

SOUTH SHORES DEVELOPMENT, LLC,	)	
	)	
Plaintiff,	)	TC-MD 060154C
	)	
v.	)	
	)	
LINCOLN COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION OF DISMISSAL</b>

Plaintiff appealed its property taxes<sup>1</sup> for the 2004-05 tax year based on the substantial reduction in the real market value (RMV) of the property, identified as Account R359050, for the 2005-06 tax year.<sup>2</sup> In response to the appeal, Defendant submitted a Stipulated Agreement, signed by the parties, reflecting an agreed-upon reduction in RMV from \$374,750 to \$34,750.

The court explained to the parties during the May 22, 2006, case management conference that it could not accept the Stipulated Agreement unless the relevant requirements of ORS 305.288 were satisfied.<sup>3</sup> The reason for the court's limitation is that Plaintiff's appeal was not timely filed with this court from an order of the board for the year at issue. Moreover, one of the two provisions in ORS 305.288 under which the court can reduce the value of property is inapplicable in this case because the property at issue is undeveloped land. Therefore, although the parties' reduction far exceeds 20 percent, the court cannot order relief under ORS 305.288(1) because paragraph (a) requires that the property be "used primarily as a dwelling \* \* \*."

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<sup>1</sup> A refund in property taxes is predicated upon a reduction in value. Plaintiff's appeal was based on a reduction in value for the subsequent year and the Complaint should have been couched in terms of value, not property taxes. Although property owners tend to focus on taxes, the court's authority is to determine whether the value is correct.

<sup>2</sup> The county board of property tax appeals (board) reduced the RMV value from \$427,130 to \$39,620.

<sup>3</sup> All references to the Oregon Revised Statutes (ORS) are to 2003.

Additionally, the “good and sufficient cause” standard in subsection (3) of ORS 305.288 is not satisfied because Plaintiff acknowledged it was not prevented from properly pursuing the statutory right of appeal in 2004 because of “an extraordinary circumstance that [wa]s beyond [its] control.” See ORS 305.288(5)(b)(A) (defining good and sufficient cause as “an extraordinary circumstance that is beyond the control of the taxpayer, or the taxpayer’s agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the statutory right of appeal[.]”). Those are the only two categories under which the court can order a reduction in value. Because one of the provisions is inapplicable (the 20 percent error rule) and the other is not satisfied, the court cannot accept the parties’ agreement.<sup>4</sup> Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff’s appeal is dismissed.

Dated this \_\_\_\_\_ day of May 2006.

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DAN ROBINSON  
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 Dan Robinson on May 31, 2006. The Court filed and entered this document on May 31, 2006.***

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<sup>4</sup> Relief may be available from the Oregon Department of Revenue pursuant to ORS 306.115 based on the parties’ agreement that an error exists on the tax roll.