

IN THE MAGISTRATE DIVISION

OF THE OREGON TAX

Property Tax

SONYA E. HELM, aka Sonya E. Ault,)	
)	
Plaintiff,)	No. 991217B
)	
v.)	
)	
YAMHILL COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Ms. Helm has appealed the disqualification of her land, identified by Account No. R 2404 01600, from special assessment as lands in farm use. Ms. Helm appeared and presented her case. Yamhill County was represented by Ms. Berndt, of the assessor's staff.

STATEMENT OF FACTS

The area under special assessment consists of some 8.75 acres zoned exclusively for farm use. The Helms have used the land to raise sheep; at various times their numbers have been between five and eleven. A barn for the ewes and lambs has been added; there is a new fence about the pasture.

Yamhill County, while sympathetic, based its disqualification on the fact that in the last five years farm income has totaled only \$400.

COURT'S ANALYSIS

The key case for resolving this appeal is *Everhart v. Dept. of Rev.*, ___ OTR ___ (November 17, 1999).¹ *Everhart*, like the case at issue here, dealt with the disqualification from special assessment of lands within an Exclusive Farm Use Zone. In

¹*Everhart* reversed a decision of the magistrate that had approved the disqualification of the property.

deciding that raising ten sheep on 12.75 acres for a reported gross income of \$414 was a sufficient use to save the property from disqualification *Everhart* stressed that the primary purpose of holding the property does not need to be to obtain a profit in money so long as farming activities are conducted. In its analysis *Everhart* suggests that, so long as the farming activities were done with the intention of making a profit, the amount of profit is not determinative of whether or not to disqualify the property.

Applying the reasoning of *Everhart* to this appeal shows that some ten sheep on a newly fenced pasture, with a barn, and \$400 in gross sales, is enough to save the special assessment. Plaintiff's appeal is granted.

CONCLUSION

IT IS THE DECISION OF THE COURT that the property shall retain its special assessment.

Dated this _____ day of June, 2000.

SCOT A. SIDERAS
PRESIDING MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97310. 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 JUNE 14, 2000. THE COURT FILED THIS DOCUMENT ON JUNE 14, 2000.