

W. Y. C. I.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NUMBER) IN THE MATTER OF A REFUND TO)
) PRADO PARTNERS IN THE AMOUNT)
) OF \$32,652.61)

WHEREAS the following property tax accounts have been charged or have paid property taxes in excess of the correct amount, as indicated, and

WHEREAS a refund of these taxes, with interest, as appropriate, should be made to Prado Partners, now therefore be it,

ORDERED that the Lane County Departments of Assessment and Taxation and Management Services take such action as is necessary and proper to refund to Prado Partners, the taxes and interest indicated from the unsegregated funds.

OREGON DEPARTMENT OF REVENUE

2000-2001 TAX YEAR

Account Number 1400678 \$ 10,845.53 Tax Refund
Prado Partners 5,856.59 Interest Refund \$ 16,702.12
c/o 777 High Street, Suite 150
Eugene, OR 97401

2002-2003 TAX YEAR

Account Number 1400678 \$ 11,232.74 Tax Refund
Prado Partners 4,717.75 Interest Refund \$ 15,950.49
c/o 777 High Street, Suite 150
Eugene, OR 97401

TOTAL REFUND: \$ 32,652.61

DATED this _____ day of April, 20205

APPROVED AS TO FORM

Date 4-6-05 lane county


OFFICE OF LEGAL COUNSEL

Anna Morrison, Chair
Lane County Board of Commissioners

**STATE OF OREGON
DEPARTMENT OF REVENUE**

**In the Matter of the Petition of
PRADO PARTNERS
Concerning Certain Property Tax Matters
for the 2000-01 and 2001-02 Tax Years
CONFERENCE DECISION No. 03-0224**

Prado Partners, petitioner, appealed to the Department of Revenue for a reduction in value of certain real property in Lane County. The appeal affects property identified in assessor's records as account numbers 1400678, 1537933, 1537941 and 1610466. A supervisory conference was held on January 29, 2004 and the department determined that it had jurisdiction to further review the appeal pursuant to its supervisory power provided in ORS 306.115.

A telephone conference was held at 3:00 p.m. on August 3, 2004. Participating were David Carmichael representing the petitioner; Tom Conner, the petitioner's principal; Bill Weeks, registered appraiser for Lane County; and Gregg Thummel, conference officer for the Department of Revenue. A second telephone conference was held at 9:30 a.m. on August 13, 2004. Participating in the second conference was Sue Pritchard, real estate broker and witness for the petitioner and David Carmichael, Bill Weeks and Gregg Thummel.

The subject property is a former J. C. Penney store in downtown Eugene. It has been converted to a commercial office building. The total real market value for the four accounts on the assessment roll in 2000 and 2001 was \$2,224,620 and \$2,269,100, respectively. The petitioner acquired the property in 1997 as part of an IRC section 1031 exchange, assigning \$1,550,000 as its purchase price.

David Carmichael explained that the Oregon Tax Court reduced the 2002-03 value of the subject property to \$606,580 due to declining economic conditions in downtown Eugene and an income approach provided by the petitioner. Mr. Carmichael further explained that the petitioner acknowledges that the income approach presented to the Oregon Tax Court relies on income figures for 2000 and 2001, and that the range of value for the 2000-01 and 2001-02 tax years may be as high as \$750,000.

Mr. Conner, an experienced commercial real estate investor, testified to the economic conditions in downtown Eugene. There was a significant problem with vagrancy, panhandling and drug problems in the pedestrian mall area of downtown. Around September, 2002 Broadway and Willamette streets were opened to eliminate the pedestrian mall in the hopes of spurring an economic revival. That revival has yet to

materialize. Mr. Carmichael cited a September 14, 2003 article in the Eugene Register Guard that corroborated the stagnant economic condition of the neighborhood, and highlighted the excessive number of vacant storefronts. The article quotes John Brown, a real estate appraiser as stating that it could take three to five years for the economic conditions to improve to a point where it would make economic sense to renovate the subject property.

Mr. Conner provided actual income figures for the 1998 and 1999 tax years. When those income figures are used in the income approach prepared for the magistrate, the approach indicates a real market value of \$750,000 for the subject property.

Mr. Weeks questioned Mr. Conner with regards to the petitioner's acquisition of the subject property, and how the purchase price was assigned. Mr. Conner explained that the property was acquired in an exchange with partners they were dealing with in California in order to end the unprofitable partnership. Petitioner obtained the subject property in exchange for their interest in a parcel of bare land in California. The intent had been to develop the parcel in California but they were blocked by restrictive land use zoning. Mr. Conner testified that he did not really look into the value of the subject property, as his primary motivation was to end the partnership in California. The \$1,550,000 value assigned to the exchange merely represented the amount of investment the petitioner had in the California property. To date the California property is still undeveloped.

In the second teleconference Sue Pritchard, a real estate broker with extensive experience in downtown Eugene, testified to Mr. Conner's expertise in real estate investment. She also corroborated the testimony of Mr. Conner as to the economic environment in the neighborhood during and after the years at issue. She stated that prior to the street openings in 2002 the area was at one of the lowest ebbs she had experienced. The undesirable elements in the mall area inhibited professionals from locating there. In addition the subject property is at a stage where it would need renovation to attract and retain tenants at lease rates that would be profitable. Ms. Pritchard stated that her testimony in the magistrate case for the 2002 tax year for the subject property would be applicable to the 2000 and 2001 tax years as well.

Mr. Weeks established with Ms. Pritchard that she has not performed a market analysis valuation of the subject property. He also questioned Ms. Pritchard regarding an August 12, 2004 newspaper article announcing that the subject property has been sold to St. Vincent DePaul. Ms. Pritchard had no knowledge of the sale beyond the information in the article.

Departments Analysis

The county maintains that the \$1,550,000 value ascribed to the subject property in the 1031 exchange in 1997 should form the lower limit for the valuation of the property for the 2000 and 2001 tax years. However the department finds that this value is suspect

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Prado Partners

for several reasons. First, the value was ascribed to the property more than two years prior to the assessment date for the 2000 tax year. Secondly, the transaction was not at arms length. The petitioner accepted the subject property from partners in a California investment in return for ending that partnership. The petitioner testified that the primary motivation for the transaction was to end the California partnership. He did not do the typical market analysis to determine the subject property's actual value, but simply ascribed the investment that was sunk into the California partnership. Finally, a section 1031 exchange is not a traditional sale. The program allows for deferral of any capital gains, and the reflected tax savings may require an adjustment to the sales price.

The petitioner provided an income approach accepted by the magistrate in the case for the 2002 tax year. He also provided income figures from 1998 and 1999, which when used in the income approach from the magistrate case indicate a value of up to \$750,000. In contrast the county relied on the value ascribed to the acquisition of the subject in 1997. The county also introduced the current sale of the subject property to St. Vincent DePaul; however no evidence as to the sales price of that transaction was produced.

Conclusion

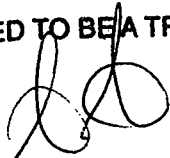
The department finds that the 2000-01 and 2001-02 real market value of the subject property is reduced from \$2,224,620 and \$2,269,100, respectively to \$750,000. This value may be allocated to the four accounts at the assessor's discretion. If excess taxes have been paid, they shall be refunded with statutory interest as required by ORS 311.806 and 311.812.

IT IS SO ORDERED.

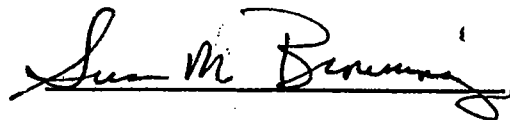
Dated and mailed at Salem, Oregon, this *2nd* day of *September*, 2004.

DEPARTMENT OF REVENUE

CERTIFIED TO BE A TRUE COPY



PROPERTY TAX DIVISION
DEPARTMENT OF REVENUE



Susan M. Browning
Deputy Director

Notice: If you want to appeal this decision, file a complaint in the Magistrate Division of the Oregon Tax Court, 1163 State Street, Salem, Oregon 97301-2563. YOUR COMPLAINT MUST BE FILED WITHIN 90 DAYS AFTER THE MAILING DATE SHOWN ABOVE, OR THIS DECISION WILL BECOME FINAL AND CANNOT BE CHANGED.

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05/15/2005

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IN THE MATTER OF A REFUND TO PRADO PARTNERS
IN THE AMOUNT OF \$32,652.61