

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 94-40296
Summary Calendar

WADE W. and LINDA L. WIENER,

Petitioners-Appellants,

VERSUS

COMMISSIONER OF INTERNAL REVENUE,

Respondent-Appellee.

Appeal from the Decision of the United States Tax Court
(27586-90)

(September 7, 1994)

Before KING, JOLLY and DeMOSS, Circuit Judges.

PER CURIAM:*

We have carefully reviewed the briefs, the reply briefs, the record excerpts and relevant portions of the record itself, and we are satisfied that the Tax Court's finding that an agency relationship did not exist between the taxpayers and the individuals to whom lots were conveyed in the Songbird Ranch

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Development is not clearly erroneous. Accordingly, we AFFIRM the decision of the Tax Court assessing a tax deficiency for the year 1986 in the amount of Thirty-five Thousand Two Hundred Fourteen and No/100 Dollars (\$35,214.00) based on realized aggregate gains of Fifty-six Thousand Sixty-four and No/100 Dollars (\$56,064.00) on the sales of lots in the Songbird Development during that year.

AFFIRMED.