

THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN THE ARIZONA TAX COURT

TX 2021-000356

07/22/2022

HONORABLE SARA J. AGNE

CLERK OF THE COURT
J. Holguin
Deputy

ROGER J JUSSEAUME

JIM L WRIGHT

v.

YAVAPAI COUNTY

JAMES M SUSA

JUDGE AGNE

UNDER ADVISEMENT RULING

See Orders set in LATER

Courtroom 912 – East Court Building

2:00 p.m. This is the time set for an Oral Argument on Defendant Yavapai County's Motion for Summary Judgment filed November 12, 2021 via Court Connect. Plaintiff Roger J. Jusseaume is represented by counsel, Jim L. Wright. Defendant Yavapai County is represented by counsel, James M. Susa.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held regarding the status of the case.

Oral argument commences.

Based on the reasons stated on the record,

IT IS ORDERED taking this matter under advisement.

2:28 p.m. Matter concludes.

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LATER:

The Court held oral argument on July 22, 2022, regarding Defendant Yavapai County's Motion for Summary Judgment filed November 12, 2021 ("Motion"), as well as subsequent filings related thereto. The Court has considered the filings and arguments of the Parties, the relevant authorities and applicable law, as well as the entire record of the case, and—considering all facts and reasonable inferences therefrom in the light most favorable to the non-movant Plaintiffs—hereby finds as follows regarding the Motion.

In April 2021, the County issued a Notice of Proposed Correction ("NOPC") under A.R.S. § 42-16252(A) for tax years 2018, 2019, 2020, and 2021 to correct the use of the property for the years open to correction and change the full cash value and resulting calculation of limited property value. (*See* SOF, filed November 12, 2021, at ¶¶ 14, 16, *undisputed*.) The storage building had been converted to a school classroom in 2009. (*See* SOF ¶7.) The County became aware of the change in use during Jusseaume's deposition in *Wayas v. Yavapai County*, TX2020-000846. (SOF ¶1.) The County seeks summary judgment based on Jusseaume's failure to raise one of what it argues are the sole appealable issues: (a) whether an error occurred, (b) whether the Assessor correctly determined use, and (c) whether the determination of full cash value exceeds fair market value in his Complaint. (Mot., at 2.)

In his Complaint, Jusseaume asserts that the County incorrectly calculated the limited property value for tax year 2018 using Rule B which also resulted in incorrect limited property values for tax years 2019, 2020, and 2021 calculated using Rule A. (Compl., filed October 5, 2021, at 3.) Jusseaume previously raised the following bases in dispute of the NOPC: (1) failure to show an error in each tax year; and (2) unlawful computation of the limited property value. The County asserts that Jusseaume waived any argument on valuation or legal classification. The Court disagrees. Jusseaume disputed the computation of the limited property value in his response to the NOPC and in his Complaint. (*See* CSOF, filed March 30, 2022, at ¶1.) Taxpayer did not waive his dispute as to the computation of limited property value, and Defendant cites no authority showing he did.

The County further asserts that Jusseaume cannot raise any arguments regarding valuation methodologies under the error correction statutes because methodology is not an "error" under the statutes. However, the "taxpayer may appeal any valuation or legal classification issue that arises from the proposed correction as provided in this section." A.R.S. § 42-16252(D); *cf.* A.R.S. § 42-16256(D) ("This article does not authorize an independent review of the overall valuation or legal classification of property that is not a result of an error as defined in § 42-16251").

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The alleged unlawful computation of limited property value fits within an issue of valuation. *See* A.R.S. § 42-11001(18) (“‘Valuation’ means the full cash value or limited property value that is determined for real or personal property, as applicable”). In addition, A.R.S. § 42-16257 states: “In valuing any property pursuant to this article, the tax officer shall use the valuation and legal classification criteria that were in effect on the valuation date for the tax year of the correction.”

Considering the statutes together, a taxpayer may appeal any valuation or legal classification issue that arises from the proposed correction and could be a result of the application of the valuation, including limited property value determination, and legal classification criteria from the corrected tax year. *See* A.R.S. §§ 42-16252(D); 42-11001(18); 42-16257. This is what Plaintiff has done. (Compl., at ¶52.)

The County asserts that case law supports its position that Plaintiff may not bring these claims under the error correction statute. Yet the cases cited by the County do not support its position. In *Pima Cty. Assessor v. Arizona State Bd. of Equalization*, 195 Ariz. 329 (App. 1999), the taxpayer had asserted a claim under the error correction statute and had already filed an appeal for the same tax year. The Court found that the taxpayer could raise an error correction after a separate appeal. *Id.* at 334, ¶19.

In *Lyons v. State Bd. of Equalization*, 209 Ariz. 497 (App. 2005), the taxpayer filed notices of claim regarding the Assessor’s denial of an exemption. The Court found that the incorrect denial of a property exemption could be corrected under the error correction statutes even though the taxpayer could also dispute the exemption as an illegally collected tax under A.R.S. § 42-11005. *Id.* at 503, ¶24. The *Lyons* court further noted the error-correction statutes’ remedial purpose. *Id.* at 502, ¶21; *see also Pima Cty.*, 195 Ariz. at 334, ¶15.

The Court does not find either case particularly instructive given the facts at hand. Unlike *Pima County Assessor* and *Lyons*, the Assessor in this case issued the NOPC regarding the incorrect use, rather than the taxpayer initiating the claim. In addition, neither case dealt with the language in A.R.S. § 42-16252(D), which was added in 2014. *See* 2014 Ariz. Sess. Laws, Ch. 249, § 6.

The Court does not find that the case law cited supports the County’s position on the limitations of the error correction statutes. Therefore, **THE COURT FINDS** that Jusseume may challenge the County’s methodology in calculating limited property value under the error correction statutes when, as here, such valuation issue arises from the proposed correction.

IT IS ORDERED denying Defendant Yavapai County’s Motion for Summary Judgment filed November 12, 2021.

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IT IS FURTHER ORDERED affirming the Trial Setting Conference on **January 30, 2023, at 9:00 AM (15 minutes allotted)**.

Please join the hearing via:

<https://tinyurl.com/AZtaxcourt>

You may need to type the link directly into your browser in lieu of clicking.

You can also dial in using your phone.

Phone: +1 917-781-4590 and Conference ID: 642 102 793#

You may wish to download the Microsoft Teams application first before using the above link or typing it into your browser; for more on Court Connect, please visit:

<https://superiorcourt.maricopa.gov/court-connect>