

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

TX 2017-000027

03/08/2023

HONORABLE SARA J. AGNE

CLERK OF THE COURT  
C. Lockhart  
Deputy

CASTLE PHOENIX L L C

DOUGLAS S JOHN

v.

MARICOPA COUNTY

JEFFREY B MESSING

JUDGE AGNE

MINUTE ENTRY

The Court has received and reviewed Defendant Maricopa County's Motion for Reconsideration of the Court's December 29, 2022 Minute Entry, which Motion was filed January 10, 2023 ("Motion").

As an initial matter, motions for reconsideration are disfavored. *See, e.g., Motorola, Inc. v. J.B. Rodgers Mech. Contractors, Inc.*, 215 F.R.D. 581, 582 (D. Ariz. 2003). They are to be granted only in highly unusual circumstances. *See, e.g., Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003). A motion for reconsideration will be denied unless there is a showing of new facts or legal authority that, despite reasonable diligence, could not have been brought to the Court's attention before its decision. *See Motorola, Inc.*, 215 F.R.D. at 586; *see generally Lemons v. Superior Ct.*, 141 Ariz. 502, 504 (1984) (stating that the reconsideration of a ruling is warranted only if "new circumstances are demonstrated").

The Motion relies primarily on *Mesquite Power, LLC v. Arizona Dep't of Revenue*, 523 P.3d 960, 967 (App. 2022) (petition for review pending), which Defendant did bring to the Court's attention before its decision in a December 27, 2022, filing, and which the Court's decision noted that it considered. (*See* Ruling filed December 29, 2022, at 1.) *Mesquite* was an appeal of an Arizona Tax Court ruling after *trial*, 523 P.3d 960, at para. 14, and this Court noted in its ruling denying both sides' dispositive motions that several disputed factual issues remain for trial in this case. (Ruling, filed December 29, 2022, at 3.)

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The instant case is distinguishable from *Mesquite* in that here the taxpayer and taxing authority used the same appraisal method(s), “but differ as to the correct treatment of factors utilized in such method,” meaning “the taxpayer’s evidence is nevertheless competent and sufficient to overcome the statutory presumption.” See *Mesquite Power, LLC*, 523 P.3d at 967, para. 37 (internal punctuation and citations omitted); (see also DSOB, filed June 27, 2022, at para. 10; PCSOF, filed August 12, 2022, at para. 10.)

And this case is distinguishable from *Sulphur Springs Valley Elec. Co-op., Inc. v. Arizona Dep’t of Revenue*, 1 CA-TX 14-0002, 2015 WL 773335, at \*6 (App. Feb. 24, 2015) (examined for persuasive value only pursuant to Ariz. R. Supreme Ct. 111(c)(1)(C)), on which the Motion also relies. There, Arizona Supreme Court precedent prohibited the method of valuation on which the taxpayer chose to base its evidence. *Id.* That is also not the case here.

A motion for reconsideration is not to be used to ask the court merely to rethink what it has already thought through, rightly or wrongly. *United States v. Rezzonico*, 32 F. Supp. 2d 1112, 1116 (D. Ariz. 1998). Arguments that the Court committed error should be directed to the court of appeals. See, e.g., *Defenders of Wildlife v. Browner*, 909 F. Supp. 1342, 1351 (D. Ariz. 1995); see also *Preserve Endangered Areas of Cobb’s History, Inc. v. U.S. Army Corps of Eng’rs*, 916 F. Supp. 1557, 1560 (N.D. Ga. 1995) (recognizing that “[a] motion for reconsideration is not an opportunity for the moving party . . . to instruct the court on how the court ‘could have done it better’ the first time”), *aff’d*, 87 F.3d 1242 (11th Cir. 1996). No circumstances warranting reconsideration exist in this case. Therefore,

**IT IS ORDERED denying in full** the Motion filed January 10, 2023.

**LET THE RECORD REFLECT** that this matter continues to be stayed pending resolution of TX2017-000143, as ordered by the Court on January 13, 2023.