

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2008-000879

08/23/2011

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

QUALITY HILLS PHASE I I

MATTHEW M ELLINGSON

v.

NAVAJO COUNTY

TIMOTHY WATSON

MINUTE ENTRY

The Court took this matter under advisement following oral argument on August 18, 2011. The Court has considered Defendant's Motion for Summary Judgment and finds as follows.

The County's motion as written seeks summary judgment only with respect to the 2006 and 2007 tax years. At oral argument, it expanded its argument to include the 2008 tax year as well. This is somewhat problematic, for it appears from the notice of tax appeal in this case, at paragraph 17, that no appeal of that year's value was filed, rendering inapplicable A.R.S. § 42-16056(A). However, as the notice of tax appeal states that the value accepted by the parties for the 2007 tax year was carried over to the 2008 tax year, the Court's analysis will be the same, so, in light of the fact that Quality Hills did not object, the failure to raise the issue of the 2008 tax year until oral argument was harmless.

Quality Hills misunderstands the statutory method for valuing timeshare properties contained in A.R.S. § 42-13452(A): "Except as provided by subsection B, the county assessor shall determine the valuation of timeshare property based on the original gross sales price of the timeshare interests of the timeshare property to a buyer." Because the valuation is based on the original sales price (less a deduction for the nonrealty components, presumptively 65 percent), the decline in the real estate market has no effect on the valuation of timeshares unless the assessor, in his discretion, uses the resale price method of subsection B, which he evidently did not. According to Quality Hills, the valuation actually went down in 2006 and 2007. Thus, if

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there was an error, it worked in favor of Quality Hills for those two years as opposed to the unobjected-to prior years.

When it filed its 2006 and 2007 appeals, Quality Hills obviously believed that the tax assessed was wrong. It had both reason and opportunity to determine the nature of the mistake leading to the incorrect valuation; even if no documentation identifying it was turned over, it could have been readily ascertained by, for instance, deposing the assessor. Instead, Quality Hills accepted a compromise valuation – apparently the value it itself believed to be correct based on its own understanding of the law – to govern those two tax years, and as it turned out tax year 2008 as well. This valuation having been accepted, whether the superseded original valuation was correctly reached is a moot question. (Because under A.R.S. § 42-13452(A) the valuation of a timeshare is invariable unless the assessor employs the resale price method, it follows that the value fixed in 2007 would remain the same for 2008.) The County is entitled to summary judgment for tax years 2006, 2007, and 2008.

IT IS ORDERED granting the County's Motion for Summary Judgment as to tax years 2006, 2007 and 2008.