

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2011-000804

03/16/2012

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

L K Y REAL ESTATE FUND I, L P

DOMINGOS R SANTOS

v.

YAVAPAI COUNTY

MARTIN JAMES BRENNAN

MINUTE ENTRY

The Court has received and reviewed Plaintiff's Motion for Reconsideration, filed on March 2, 2012.

There is a critical difference between A.R.S. § 42-11004 and the predecessor statute interpreted by *RCJ Corp. v. Arizona Dept. of Revenue*, 168 Ariz. 328 (Tax 1991). The older statute contained a subsection E: "Any taxpayer dissatisfied with the valuation or classification of his property may appeal to the superior court only in the time and manner described in [now superseded statutes]." The Tax Court in *RCJ* construed this as a limitation on the scope of the underlying statute: "Not only is its compass not limited to issues of valuation and classification, but § 42-204(E) removes such issues from its purview." *Id.* at 331 (emphasis added). Subsection E is no longer in § 42-11004; it is now subsection D of § 42-11005, which deals with the distinct subject of recovery of illegally collected taxes. Thus, it can no longer be construed as limiting the purview of § 42-11004. Rather, it limits the scope of § 42-11005: "Subsection E clearly expresses a legislative intent that valuation and classification not be included among the issues which can be litigated in an action brought pursuant to A.R.S. § 42-204[(C); now § 42-11005(A)]." *Id.* at 332. The Court believes that the 1997 revision, splitting the old statute (which *RCJ* described as a "potpourri of stand-alone tax directives," *id.*) into a general rule governing all tax challenges and a specific provision for recovery of illegally collected taxes, clarifies the legislative intent.

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IT IS ORDERED denying Plaintiff's Motion Reconsideration and no response need be filed.

Arizona Tax Court - ATTENTION: eFiling Notice

Beginning September 29, 2011, the Clerk of the Superior Court will be accepting post-initiation electronic filings in the tax (TX) case type. eFiling will be available only to TX cases at this time and is optional. The current paper filing method remains available. All ST cases must continue to be filed on paper. Tax cases must be initiated using the traditional paper filing method. Once the case has been initiated and assigned a TX case number, subsequent filings can be submitted electronically through the Clerk's eFiling Online website at <http://www.clerkofcourt.maricopa.gov/>

NOTE: Counsel who choose eFiling are strongly encouraged to upload and e-file all proposed orders in Word format to allow for possible modifications by the Court. Orders submitted in .pdf format cannot be easily modified and may result in a delay in ruling.