

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2011-000628

04/19/2012

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

3550 NORTH CENTRAL AVENUE L L C

DONALD P ROELKE

v.

MARICOPA COUNTY

BENJAMIN GROSS

JEAN WEAVER RICE

MINUTE ENTRY

Courtroom 202

9:15 a.m. This is the time set for oral argument on Defendant's Motion to Dismiss. Plaintiff is represented by counsel, Donald Roelke. Defendant is represented by counsel, Benjamin Gross and Jean Weaver Rice.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Argument is presented to the Court.

With respect to Plaintiff's oral request to amend the Complaint,

IT IS ORDERED denying Plaintiff's request to amend the Complaint for the reasons stated on the record.

IT IS FURTHER ORDERED Defendant's Motion to Dismiss is taken under advisement.

9:28 a.m. Matter concludes.

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LATER:

Upon further consideration, the Court finds as follows.

Plaintiff WBCMT missed its filing deadline under either of its theories. If it was continuing the administrative review process as successor in interest to 3550 North Central Avenue, it would have had to file its appeal to this Court within sixty days of the date of mailing of the assessor's decision; it missed that deadline by almost three months. Alternatively, if it was filing an original appeal, it had to do so by December 15, 2011. The original complaint, filed in the name of 3550 North Central Avenue, recites that it was filed pursuant to A.R.S. § 42-16201 as an appeal from the assessor's decision, not A.R.S. § 42-16204 as a direct appeal. Not until the First Amended Complaint, filed by WBCMT on February 17, 2012, was the action characterized as a direct appeal and Section 16205.01 invoked. This is too late. The new owner provision of Section 16205.01 does not save it, because it acquired the property prior to December 15. *Frederickson v. Maricopa County*, 197 Ariz. 104, 108 ¶ 13 (App. 1999).

Therefore,

IT IS ORDERED granting Defendant's Motion to Dismiss.

IT IS FURTHER ORDERED directing Defendant to lodge a form of judgment and file any Application and Affidavit for Attorney's Fees and Statement of Taxable Costs within thirty (30) days of the filing date of this minute entry.

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.