

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

TX 2017-000440
TX 2017-000441

03/05/2018

HONORABLE CHRISTOPHER WHITTEN

CLERK OF THE COURT
T. Cooley
Deputy

BILL STAPLES

JULIA L MATTER

v.

A P & D INVESTMENTS L L P

DOMINGOS R SANTOS

MINUTE ENTRY

Courtroom 201-OCH

10:00 a.m. This is the time set for Oral Argument re: Motion to Dismiss. Plaintiff is represented by counsel, Julia L. Matter. Defendant is represented by counsel, Domingos R. Santos.

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

Oral argument is presented.

Based upon matters presented to the Court,

IT IS ORDERED taking this matter under advisement.

10:31 a.m. Matter concludes.

LATER:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2017-000440

03/05/2018

The court has considered the Defendants' Motion to Dismiss in these two cases, both of which were filed on December 8, 2017, together with Plaintiff's response and the supporting reply briefs. The Court benefited from oral argument on the motions on March 5, 2018.

The Court deals quickly with the argument that, unless he submits sworn testimony at the hearing, the assessor cannot be deemed a "person who is dissatisfied" entitled to appeal. As the statutes do not mandate that a party offer sworn testimony at the State Board of Equalization ("SBOE") hearing, imposing such a barrier to appealing an SBOE decision is beyond this Court's authority.

Defendant also errs in finding in the governing statutes a requirement that only sworn testimony may be taken at the SBOE. "A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order providing the evidence supporting such decision or order is substantial, reliable, and probative." A.R.S. § 41-1062(A)(1); *Brown v. Arizona Dept. of Real Estate*, 161 Ariz. 320, 328 (App. 1995) (hearsay not only admissible, but may be given probative weight).

While a concerted plan to side-step participation in the SBOE process frustrates the Court, and would almost certainly frustrate taxpayers who opt for informal dispute resolution before Tax Court proceedings begin, arguments aimed at precluding such a side-step are best made to a rule making body, not this Court.

Accordingly, the Motions to Dismiss in both TX2017-000440 and TX 2017-000441 are denied.