Clerk of the Superior Court
*** Electronically Filed ***
06/18/2024 8:00 AM

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

TX 2022-000423 06/17/2024

HONORABLE SARA J. AGNE

CLERK OF THE COURT
J. Holguin
Deputy

A & P RANCH LTD

v.

COCHISE COUNTY

PAUL MOORE

PAUL CORREA

JERRY A FRIES
PAUL J MOONEY
JUDGE AGNE

MINUTE ENTRY

The Court held oral argument on April 19, 2024, regarding Plaintiffs' Motion for Summary Judgment, filed January 30, 2024 ("Plaintiffs' Motion"), Defendant Cochise County's Motion for Summary Judgment, filed January 30, 2024 ("County's Motion"), and Department of Revenue's Motion for Partial Summary Judgment, filed January 30, 2024 ("ADOR's Motion"), as well as subsequent filings related thereto.

The Court has considered the filings and arguments of the Parties, the relevant authorities and applicable law, as well as the entire record of the case, and—considering all facts and reasonable inferences therefrom in the light most favorable to the non-movants, respectively—hereby finds as follows regarding the Motions.

Plaintiffs own agricultural property in Cochise County including nut orchards and vineyards (collectively the "Property"). (Plaintiffs' Statement of Facts, filed January 30, 2024 ("PSOF"), at ¶¶ 1–2, *undisputed*.) In tax year 2023, the full cash values of nut orchards increased by 2,000% over the 2022 full cash values. (PSOF ¶3, *undisputed*.) In tax year 2023, the full cash values of vineyards increased by 8,000% over the 2022 full cash values. (PSOF ¶4, *undisputed*.) Plaintiffs have appealed the valuation of the Property for tax year 2023. (*See* Compl., filed December 14, 2022.)

Plaintiffs seek summary judgment finding that the agricultural property must be valued by the method set forth in A.R.S. § 42-13101 and that the County Assessor did not do so for the Property. (Plaintiffs' Mot., at 1.) The Department seeks partial summary judgment that the method used by the Assessor for the 2023 tax year is lawful. (ADOR's Mot., at 1.) The County seeks summary judgment in its favor based on Plaintiffs' alleged failure to identify any error in the property assessments. (County's Mot., at 2, 6.)

Summary judgment is appropriate if "there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law." Ariz. R. Civ. P. 56(a); *General Motors Corp. v. Maricopa Cty.*, 237 Ariz. 337, 339 ¶7 (App. 2015).

The Assessor used leases of irrigated lands and the Department's statutory capitalization rate in order to determine the statutory value of the land of the Property. (Cochise County's Separate Statement of Fact, filed January 30, 2024 ("County's SOF"), at ¶3, *undisputed*.) The Assessor used a sales comparison method to determine the fair market value of the improvements on the Property, including buildings, orchard trees, and grapevines. (County's SOF ¶¶4–5, *undisputed that this is the method the Assessor claims he used*.)

The Assessor used a tree value of $12,000/acre and added that to the statutory land value of $1,800/acre and to the value of any buildings/structures to determine the full cash value for each orchard property. (County's SOF ¶5, *undisputed that this what the Assessor claims he did*.) The Assessor used a vine value of $8,000/acre and added that to the statutory land value of $1,800/acre and to the value of any improvements/structures to determine the full cash value for each vineyard property. (County's SOF ¶6, *undisputed that this what the Assessor claims he did*.)

Plaintiffs contend that the addition of the $12,000/acre in tax year 2023 and $600/acre in previous years to nut orchards is improper. (Plaintiffs' Mot., at 9.) Plaintiffs also contend that the addition of the $8,000/acre in tax year 2023 and $100/acre in previous years to vineyards is improper. (Plaintiffs' Mot., at 9.) Plaintiffs assert that these determinations are based on market influences and violate A.R.S. § 42-13101. (Plaintiffs' Mot., at 9.)

A.R.S. § 42-13101(A) sets forth the valuation method for agricultural property: "Land that is used for agricultural purposes shall be valued using only the income approach to value without any allowance for urban or market influences."

The County contends that the Assessor followed the statutory method set out in A.R.S. § 42-13101. (County's Mot., at 7.) The County asserts that orchard trees and grapevines on agricultural land are distinct from the land and have a distinct value. (County's Mot., at 8.) The

Department contends that A.R.S. §§ 42-13101 and 42-13102 do not prescribe how to value improvements on agricultural properties. (ADOR's Mot., at 3.)

According to A.R.S. § 42-11054(A)(2), the Department shall "[p]repare and maintain manuals and other necessary guidelines . . . reflecting the standard methods and techniques to perpetuate a current inventory of taxable property and the valuation of that property." The Department's 2022 Manual states:

> Permanent crops are considered to be improvements on the land and are not valued using the statutory formula prescribed for the valuation of agricultural land. Assessors should use their discretion in determining permanent crop values that are reflective of the market in their jurisdictions.

(County's SOF ¶10, *undisputed*.) The County contends that this is consistent with A.R.S. § 42-11001(6) which states that full cash value is derived from standard appraisal methods and techniques if a statutory method is not prescribed. (County's Resp. to Plaintiffs' Mot., filed February 28, 2024, at 7.)

The Department and the County contend that the Assessor has used this method of valuing permanent crops separately from agricultural land for decades. (ADOR's Mot., at 4; County's Resp., at 6.) However, such reasoning is insufficient on its own to find in favor of the Department and County. *See, e.g., Bade v. Drachman*, 4 Ariz. App. 55, 59 (1966) (the existence of long-standing administrative practices does not *ipso facto* bar relief to a taxpayer); *Transamerica Dev. Co. v. Maricopa Cty.*, 107 Ariz. 396, 399 (1971) (each tax year stands on its own).

The County contends that Plaintiffs have not met their burden to present competent evidence to overcome the presumption that the Assessor's valuation is correct under *Golder v. Dep't of Revenue*, 123 Ariz. 260, 263 (1979). (County's Mot., at 5, 7.) Plaintiffs contend that they have demonstrated that the full cash values exceed the value prescribed by A.R.S. § 42-13101 and as a result have overcome the presumption. (Plaintiffs' Combined Resp., filed March 5, 2024, at 10.)

Plaintiffs look to the language of A.R.S. § 42-13101. "[I]t is especially important in tax cases to begin with the words of the operative statute . . . [which] will be read to gain their fair meaning, but not to gather new objects of taxation by strained construction or implication." *Ariz. State Tax Comm. v. Staggs Realty Corp.*, 85 Ariz. 294, 297 (1959).

Plaintiffs contend that A.R.S. § 42-13101 is unambiguous. (Plaintiffs' Mot., at 7.) However, if there is any ambiguity, Plaintiffs contend that the statute must be construed in Plaintiffs' favor. (Plaintiffs' Mot., at 7.) Plaintiffs contend that no Arizona statute suggests different treatment of agricultural land based on different crops. (Plaintiffs' Mot., at 8.)

The County contends that Plaintiffs misinterpret A.R.S. § 42-13101 by including the trees and vines in the definition of "land" and excluding them from valuation. (County's Resp., at 9.) "Land" is referenced in the title of A.R.S. § 42-13101 and A.R.S. §§ 42-13101(A) and (B)(1). "Property" is used in A.R.S. §§ 42-13101(B) and (B)(1). The County asserts that the language of the statute is clear because the statutory method of valuing agricultural land only applies to the land. (County's Resp., at 9.) Plaintiffs contend A.R.S. §§ 42-13101(A) and (B) must be construed *in pari materia*, and in order to give effect to both sections, the broader term "property," as referenced in A.R.S. § 42-13101(B), controls. (Plaintiffs' Reply, filed March 25, 2024, at 11, n.4.)

Here, the plain language of the statute does not provide for different treatment of agricultural land based on different crops nor does it indicate that agricultural land must be valued separately from "permanent crops." The Court's conclusion is consistent with the doctrine that tax statutes are to be interpreted liberally in favor of the taxpayer and strictly against the government. *See Wilderness World, Inc. v. Dep't of Revenue*, 182 Ariz. 196, 199 (1995). The Court's conclusion is also consistent with A.R.S. § 42-2080(G): "The court shall decide all questions of law without deference to any determination that is made by the department."

Neither the Department nor the County point any statute that says tree or vines that produce crops are improvements. The only reference to "permanent crops" in Title 42 is related to the size requirements to qualify for agricultural classification. (Plaintiffs' Mot., at 5, n.3.) "Agricultural real property" includes "real property that is . . . [a]n aggregate ten or more gross acres of permanent crops." A.R.S. § 42-12151(2).

Defendants rely on the Department's Manual for their conclusion that permanent crops are improvements for purposes of valuing agricultural property. (ADOR's Resp. to Plaintiffs' Mot., filed March 5, 2024, at 8–10; County's Mot., at 3–4, 6–8.) The most recent version of the Department's Agricultural Manual is from January 2022. (Department's Statement of Facts, filed January 30, 2024 ("ADOR's SOF"), at ¶1, *undisputed*.) The earliest Agricultural Manual in the Department's possession is from September 1983. (Department's Supplemental Statement of Facts, filed March 5, 2024 ("ADOR's SSOF"), at ¶1.) The Department asserts that the 1983 Manual is substantively consistent with the current Manual as to valuing permanent crops as improvements, except for the acreage values. (ADOR's Resp., at 8–10.)

The Department contends that the orchard trees and vineyard vines are not exempt from taxation in the Arizona Constitution and must be valued and taxed under the Arizona Constitution's Exemptions Clause. (ADOR's Mot., at 8.) The County contends that Plaintiffs are essentially trying to use the appeal process to exempt their property from taxation that goes beyond the statutory appeal of valuation. (County's Reply, filed March 25, 2024, at 4–5.)

"All property in this state that is not exempt under the laws of the United States or under this section is subject to taxation as provided by law." Ariz. Const. Art. IX, § 2. At oral argument, Plaintiffs' counsel cited *In re Westward Look Dev. Corp., Inc.*, 138 Ariz. 88 (App. 1983). In *Westward Look*, the Court found that the property did not escape taxation when the improvements were not included with the value of the land. *Id*. at 90.

Here, Plaintiffs contend that its position that the value of the trees and vines should not be added as improvements does not violate Ariz. Const. Art. IX, § 2. The Court agrees. Agricultural land is to be valued pursuant to A.R.S. § 42-13101. The plain language of the statute does not countenance valuation of "permanent crops" separate from the land. Like *Westward Look*, this conclusion may result in undervaluation of the property, but the property is not escaping taxation in violation of Ariz. Const. Art. IX, § 2. *See Westward Look*, 138 Ariz. at 90.

The Court's conclusion is also consistent with Article 9, § 1 of the Arizona Constitution which states in part: "Except as provided by § 18 of this article, all taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only." A.R.S. § 42-13101 does not allow for a distinction in valuation method if the crop grown on the agricultural land is grown on a tree or a vine.

IT IS ORDERED granting Plaintiffs' Motion for Summary Judgment, filed January 30, 2024.

IT IS FURTHER ORDERED denying Defendant Cochise County's Motion for Summary Judgment, filed January 30, 2024.

IT IS FURTHER ORDERED denying the Department of Revenue's Motion for Partial Summary Judgment, filed January 30, 2024.