

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

TX 2016-000156

05/22/2017

HONORABLE CHRISTOPHER WHITTEN

CLERK OF THE COURT

T. Cooley

Deputy

P D G AMERICA PROPERTIES L L C

DAWN R GABEL

v.

MARICOPA COUNTY, et al.

KATHLEEN ANN PATTERSON

MINUTE ENTRY

The Court has considered Defendant Maricopa County's Motion for Partial Dismissal filed, February 27, 2017, Plaintiff's Response, filed March 27, 2017, and Defendant's Reply, filed April 6, 2017.

Oral argument on the motion is currently scheduled for May 26, 2017. In preparing for that argument, it has become clear that, because of the clarity in the parties' briefs, oral argument is not necessary.

Plaintiff's invocation of Rule 6(e) is refuted by the very case Plaintiff cites in support. "The legislature, when defining the filing period of 12-904, might have precluded application of the rule by choosing a different trigger point than service. It might, for example, have counted time from *filing* of the agency decision, rather than service. Alternatively, it might have specified that time be counted from the date of *mailing*. Had the legislature chosen either of these options, Rule 6(e) would not have come in play." *Thielking v. Kirschner*, 175 Ariz. 154, 159 (App. 1993) (internal citations omitted). In A.R.S. § 42-16203(C), the legislature chose to base the sixty day time limit on the date of mailing. Thus, *Thielking* compels the conclusion that the time limit is unaffected by Rule 6(e).

Accordingly, Defendant Maricopa County's Motion for Partial Dismissal is GRANTED.

The oral argument set for Friday, May 26, 2017 is vacated.