

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

TX 2023-000132  
TX 2022-000457  
TX 2021-000362

11/27/2024

HONORABLE SARA J. AGNE

CLERK OF THE COURT  
C. Hall  
Deputy

KIM ZEITLIN GOLD

CASANDRA C ZEITLIN

v.

MARICOPA COUNTY

JACK O'CONNOR III

JUDGE AGNE

**RULING**

This matter is under advisement following a bench trial held on October 10, 2024. After considering the witness testimony and the exhibits admitted at trial as well as Maricopa County's Motion for a Rule 52(c) Judgment on Partial Findings, the Court makes the following findings, conclusions, and orders.

**FINDINGS OF FACT**

1. Plaintiffs Kim Zeitlin Gold and Victor Gold, Trustees of the Gold Family Trust Dated March 8, 1993; Dale S. Zeitlin; Dawn S. Zeitlin; and Buckeye Road Partnership own the property identified as the following parcel numbers: 112-32-085; 112-32-086A; 112-32-081 ("Parcel 81"); 112-32-082 ("Parcel 82"); 112-32-083; and 112-32-087A (collectively, the "Property").

2. At issue is the fair market value of Parcel 82 for tax years 2022, 2023, and 2024.

**The Property**

3. According to the Maricopa County Assessor (the "Assessor"), the size of the Property is 218,852 square feet. (Amended Joint Pre-Trial Statement, filed October 9, 2024, at Stipulation of Material Facts ("JPSF") ¶2.)

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4. According to the Assessor, the size of Parcel 82 is 40,944 square feet. (JPSF ¶8.)
5. The Property is an industrial subdivision consisting of warehouse buildings, constructed in the 1950s and early 1960s. (JPSF ¶5.)
6. Parcel 82 is part of the same industrial subdivision and has a single building on it dating back to, at least, 1960 (the “Building”). (JPSF ¶7.)
7. Approximately one-third of the Building is located on Parcel 81 and two-thirds on Parcel 82.
8. The Building has five suite spaces—one suite on Parcel 81 and four suites on Parcel 82 (Suites 502, 508, 510, and 512).
9. Suite 502 was subject to a lease on each date of valuation for tax years 2022, 2023, and 2024.
10. A church has been leasing Suite 502 since 2016. (Defendant’s Exh. 5 at 8.)
11. Plaintiffs Dale and Dawn Zeitlin’s daughter has been using Suites 510 and 512 for her liquidation business since 2022.

**The Assessor’s Valuation**

12. For tax year 2022, the Assessor valued Parcel 82 at a full cash value of \$1,088,800. (JPSF ¶3(d).)
13. For tax year 2023, the Assessor valued Parcel 82 at a full cash value of \$1,618,700. (JPSF ¶4(d).)
14. For tax year 2024, the Assessor valued Parcel 82 at a full cash value of \$2,506,900. (JPSF ¶6.)
15. For tax years 2022, 2023, and 2024, the Assessor arrived at a full cash value by valuing the land and improvements separately.
16. For tax year 2022, the Assessor valued the land of Parcel 82 at \$293,568. The record does not evince the amount of the improvements. However, subtracting this undisputed amount

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from the full cash value of \$1,088,800, the improvements were valued at \$795,232. (*See Plaintiff's Exh. 9 at 1.*)

17. For tax year 2023, the Assessor valued the land of Parcel 82 at \$349,300 and improvements at \$1,269,400. (Plaintiffs' Exh. 1 at 1.)

18. For tax year 2024, the Assessor valued the land of Parcel 82 at \$542,800 and improvements at \$1,964,100. (Plaintiffs' Exh. 1 at 1.)

19. For tax years 2022, 2023, and 2024, the Assessor assigned only land value to Parcel 81 and no value to the improvements. (*See Plaintiffs' Exh. 1 at 2.*)

**Mr. Zeitlin's Opinion of Value**

20. Mr. Zeitlin considered the cost approach, sales approach, and income approach when opining on the value of Parcel 82 but did not rely on the income approach.

21. Mr. Zeitlin testified that the cost approach consists of the value of the land as if vacant and the depreciated value of the improvements.

22. Mr. Zeitlin testified that the value of Parcel 82 is the value of the land only because of physical depreciation of the improvements and their functional and external obsolescence.

23. As to physical depreciation, Mr. Zeitlin testified that the Building has been fully depreciated for many years.

24. As to functional obsolescence, Mr. Zeitlin testified that the ceiling height, lack of dock-high loading, perpendicular parking, and limited air conditioning contribute to the Building's obsolescence.

25. The minimum ceiling height for a distribution warehouse is 26 feet. Current facilities typically have a ceiling height of 36 to 40 feet. General industrial buildings routinely have a ceiling height of at least 18 feet.

26. The Building has a ceiling height of 11.5 feet.

27. The Building does not have dock-high loading as modern warehouses would have.

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28. The Building has perpendicular parking that backs into a public right of way. This type of parking is no longer allowed by the City of Phoenix but has been grandfathered in for the Property.

29. The Building has an evaporative cooling system and limited air conditioning.

30. The Building is built from masonry blocks which are no longer used for commercial buildings and have a high demolition cost.

31. As to external obsolescence, the property is zoned as C-3 and thus cannot be built on beyond 30 feet high.

32. There are brand-new warehouses not far from the Building that it has to compete against.

33. There is also an abandoned railroad easement on the Property that has a homeless encampment on it.

34. Mr. Zeitlin testified that the area has deteriorated, and the property nearby runs a tire business that parks rundown vehicles near the Property.

35. To determine the value of the land as vacant for purposes of the cost approach, Mr. Zeitlin used six comparable properties. (*See* Plaintiffs' Exh. 11.)

36. For his sales comparison approach, Mr. Zeitlin used the same vacant land as comparable properties. (Plaintiffs' Exh. 2, 3<sup>1</sup>, 5, 6, 7, 12; Defendant's Exh. 2.)

37. The average price per square foot for the comparable properties is \$6.26. (Plaintiff's Exh. 11.)

38. Mr. Zeitlin testified that he looked for comparable properties within approximately 8 to 10 miles of the Property.

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<sup>1</sup> The Property Type marked on the Affidavit of Property Value is "Commercial or Industrial Use" not "Vacant land." (*See* Plaintiff's Exh. 3, Section 6.) However, the County did not dispute Mr. Zeitlin's characterization at trial.

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39. Mr. Zeitlin looked for comparable properties with improvements of the same age as the Property and had similar highest and best use and could not find any.

40. Mr. Zeitlin testified that Parcel 82 is small for industrial purposes when you consider the setbacks from the roads.

41. Mr. Zeitlin testified that the income approach was not a viable appraisal method and that no buyer would use the income approach because the income from any leases on the Property is not dependable and because of the expenses associated with such an older property.

42. Mr. Zeitlin testified that if the income approach was used, it would result in a value lower than land value.

43. Plaintiffs accept the County's assessment of \$7.17/sq. ft. of the land in 2022, although Mr. Zeitlin testified it would probably be lower.

44. Mr. Zeitlin opined that the value would increase by approximately 10% per year.

45. Mr. Zeitlin opined that the value of Parcel 82 for the 2022 tax year was \$293,568.

46. Mr. Zeitlin opined that the value of Parcel 82 for the 2023 tax year was \$315,000.

47. Mr. Zeitlin opined that the value of Parcel 82 for the 2024 tax year was \$348,000.

48. While Plaintiffs called Mr. Zeitlin as their expert at trial, the County did not call any witnesses.

49. On August 16, 2024, the County filed a Motion to Use Witness and Documents at Trial Pursuant to A.R.C.P. Rule 37 ("Motion") seeking leave to call Chief Appraiser Kelly Murphy as a witness and use certain documents at trial. (Mot., at 1.)

50. The Court denied the Motion on September 13, 2024 ("Preclusion Order"). (Minute Entry, filed September 18, 2024.)

**CONCLUSIONS OF LAW**

51. All property subject to ad valorem tax in Arizona must be valued in its current use. A.R.S. § 42-11054(C)(1).

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52. The Assessor's value is presumed to be correct. A.R.S. § 42-16212(B).

53. "Full cash value", for property tax purposes, means the value determined as prescribed by statute. If a statutory method is not prescribed, full cash value is synonymous with market value, which means the estimate of value that is derived annually by using standard appraisal methods and techniques." A.R.S. § 42-11001(6).

54. The presumption of correctness stated in A.R.S. § 42-16212(B) may be rebutted by competent evidence. *Eurofresh, Inc. v. Graham Cty.*, 218 Ariz. 382, 386 ¶16 (App. 2007).

55. "Competent evidence" is evidence "derived by standard appraisal methods and techniques which are shown to be appropriate under the particular circumstances involved." *Id.* (quotations omitted).

56. Standard appraisal methods and techniques include the sales comparison approach, the cost approach, and the income approach. *London Bridge Resort, Inc. v. Mohave Cty.*, 200 Ariz. 462, 464 ¶6 (App. 2001).

57. "[W]hen questioning the reasonableness of property valuation for assessment purposes, property valuation must be considered one subject, not to be broken into separate components of land and improvements. . . . [T]he concern of . . . the Superior Court should be the reasonableness of the total (land and improvements) valuation placed on the property, rather than the separate valuations. In other words, if the total valuation represents the full cash value of the property, it is immaterial for purposes of appeal that one part is overvalued and the other is undervalued." *Transamerica Dev. Co. v. Maricopa Cty.*, 107 Ariz. 396, 399 (1971).

58. "Some property . . . because of the age of the improvements or the location of the land, might have a cash value equal to the value of the land less the cost of removal of the improvements, while on other properties a thriving business in an isolated part of the community may be more correctly appraised using the income approach." *Id.*

59. Mr. Zeitlin's opinion of value is based on the cost approach and sales comparison approach which he showed were appropriate methods for Parcel 82.

60. The County did not present any evidence regarding its opinion of value or how the Assessor came to its valuations for tax years 2022, 2023, and 2024.

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61. Through Mr. Zeitlin's testimony, Plaintiffs presented competent evidence sufficient to overcome the presumption that the Assessor's value is correct. *See Eurofresh*, 218 Ariz. at 386 ¶16.

62. Because of depreciation and obsolescence, Mr. Zeitlin determined that the value of Parcel 82 is the value of the land and that the improvements have no value.

63. The County's full cash value is excessive.

64. The only opinions of value before the Court are the Assessor's noticed valuations and Mr. Zeitlin's opinion of value.

65. Given the Court's Preclusion Order, the County relied exclusively on the argument that Plaintiffs did not overcome the presumption that the Assessor's value is correct.

66. Mr. Zeitlin's opinion of value—based on appropriate valuation methods—is the only opinion of value before the Court supported by the evidence.

Based on the above findings and conclusions,

**IT IS ORDERED denying** Maricopa County's Motion for a Rule 52(c) Judgment on Partial Findings.

**IT IS FURTHER ORDERED finding** in favor of Plaintiffs as to Parcel 82's fair market value for the 2022, 2023, and 2024 tax years.

**IT IS FURTHER ORDERED** that not later than twenty (20) calendar days after the filing of these Orders by the Clerk of the Superior Court, Plaintiffs may submit a verified application for awards of attorney's fees and costs. A.R.S. § 12-348. If an application is submitted that Defendant wishes to oppose, a response must be filed not later than 20 calendar days after service. Plaintiffs are not permitted to file a reply unless requested to do so by the Court.

**IT IS FURTHER ORDERED** that not later than twenty (20) calendar days after the filing of these Orders by the Clerk of the Superior Court, Plaintiffs must also submit a proposed form of judgment. That form of judgment may incorporate from this minute entry ruling but otherwise should be confined to fees and costs being awarded, along with Rule 54(c), Ariz. R. Civ. P., language.

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