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

TX 2022-000365 07/09/2026

HONORABLE ERIK THORSON

CLERK OF THE COURT
A. Patel
Deputy

AMERICAN MULTI-CINEMA INC DAWN R GABEL

v.

MARICOPA COUNTY JACK O'CONNOR III

MICHAEL VINCENT
JUDGE POLK
JUDGE THORSON

UNDER ADVISEMENT RULING

The Court held oral argument on May 15, 2026, regarding Defendant Maricopa County's Motion for Summary Judgment and Motion to Exclude, filed January 14, 2026 ("Defendant's Motion"), and AMC's Opposition to Maricopa County's Motion for Summary Judgment and Motion to Exclude, and AMC's Cross Motion for Summary Judgment and to Exclude John Wyatt's Testimony and Opinion of Value, filed February 18, 2026 ("Cross-Motion"), as well as subsequent filings related thereto, each of those.

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.

Plaintiff EPT Deer Valley Inc. owns a 113,768 square foot building in Maricopa County designed as a 30-auditorium movie theater (the "Property"). (Defendant Maricopa County's Statement of Facts, filed January 14, 2026 ("DSOF"), at ¶¶1–2, *undisputed*.) Plaintiff American Multi-Cinema, Inc. ("AMC") leases the Property. (DSOF ¶2, *undisputed*.) In 2011, AMC closed 13 auditoriums in the building and constructed a partition wall to restrict access to the 13 auditoriums it closed. (DSOF ¶¶5–6, *not materially disputed*.) The seats and screens were removed, concessions stand was closed, and hallways are used for storage. (DSOF ¶7, *undisputed*.) Those 13 auditoriums (approximately 34,000 square feet) became vacant and non-operating. (DSOF ¶¶8–9, *undisputed*.)

On December 6, 2022, Plaintiffs filed a Complaint and Notice of Property Tax Appeal challenging Maricopa County's full cash value and limited value for the Property for tax year 2023. (*See generally* Complaint, filed December 5, 2022.) The full cash value assigned to the Property was $28,981,100; the limited value was $12,462,890. (Compl., at ¶6.) Plaintiffs contend that these values are excessive and erroneous. (Compl., at ¶6.) Now, the County and Plaintiff AMC both seek summary judgment and to exclude each other's valuation expert. (*See generally* Def.'s Mot. and Cross-Mot.)

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). And, Arizona law requires real property be assessed according to its current use. *See* A.R.S. § 42-11054(C)(1). Both Parties agree that the legal standard for current use is the objectively verifiable use of the Property at the time of valuation. (Def.'s Mot., at 4–5; Cross-Mot., at 7.)

The Parties also agree that the Property's current use is a movie theater with 17 operational and 13 vacant, non-operational auditoriums. (Def.'s Reply and Response to Cross-Mot., filed March 25, 2026 ("Def.'s Reply"), at 5.) Both Parties' experts also identified the Property as a single-tenant movie theater. (*See* Plaintiff AMC's Statement of Additional Undisputed Material Facts, filed February 18, 2026 ("PSOF"), at ¶¶53, 76, 89; DSOF, Exh. 1 at Z-WF-DV_001041–42; DSOF, Exh. 3 at MC-DV_001071, 1087–88.)

At times, the County asserts that the Property is a "30-auditorium mixed used movie theater." (Def.'s Mot., at 3, 5, 7, 12.) However, the County has not identified how the Property's current use is anything but a movie theater with some vacant, non-operating auditoriums. Although the Property has 13 non-operating auditoriums, **THE COURT FINDS that** the Property's current use is a single-tenant movie theater.

The County identifies two issues in its Motion: (1) whether Plaintiffs' expert failed to appraise the Property according to its current use; and (2) whether the Plaintiffs' expert failed to appraise the fee simple interest. (Def.'s Mot., at 2.) The County contends that summary judgment is appropriate based on the failure of Plaintiffs' expert to follow Arizona law and fundamental principles of property valuation and that Plaintiffs' expert should be excluded under Ariz. R. Evid. 702. (Def.'s Mot., at 2.)

AMC's appraiser, Gerald Zaddack, applied the cost and income approaches to valuation, placing the most weight on the income approach. (DSOF ¶¶11–12, *undisputed*.) Mr. Zaddack determined a market rental rate based on a percentage of gross revenue from the 17 operating auditoriums. (DSOF ¶¶13, 26, *not materially disputed*.) Mr. Zaddack valued the Property at $7,800,000. (PSOF ¶6, *not materially disputed*.)

The County contends that Mr. Zaddack did not value the Property based on its current use because it only considered 17 of the auditoriums and ignored the 13 vacant, non-operating auditoriums. (Def.'s Mot., at 4.) The County contends that Mr. Zaddack did not appraise the fee simple interest because he did not value the Property's entire rentable space. (Def.'s Mot., at 4.) The County contends that Mr. Zaddack's appraisal fails to conform to the Appraisal Institute and Arizona law. (Def.'s Mot., at 14–15.) The County contends that Mr. Zaddack's appraisal is unreliable because it does not establish a true market or rental rate within market range. (Def.'s Mot., at 16.)

The County contends that Mr. Zaddack diluted the Property's value by spreading the revenue generated solely from the operational to non-operational auditoriums. (Def.'s Reply, at 16–17.) However, as AMC argues, the non-operating portion of the Property is a result of external obsolescence that is captured in the income or sales comparison approaches. (*See* Pl.'s Reply, filed April 14, 2026, at 7–8.) Therefore, **THE COURT FINDS that** Mr. Zaddack valued the fee simple interest of the Property according to its current use—a single-tenant movie theater.

THE COURT FINDS that Mr. Zaddack's opinion of value is permissible under Ariz. R. Evid. 702. "[A]lleged flaws in the application of a reliable methodology should not result in exclusion of evidence unless they so infect the procedure as to make the results unreliable." *State v. Bernstein*, 237 Ariz. 226, 230 ¶17 (2015) (internal quotations omitted). Although the County contends that Mr. Zaddack's expert opinion of value is fatally flawed, such alleged flaws do not rise to the level requiring exclusion of his testimony.

"Moreover, 'cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible [expert] evidence.'" *State ex rel. Montgomery v. Miller*, 234 Ariz. 289, 298 ¶20 (App. 2014) (*quoting Heller v. Shaw Indus., Inc.*, 167 F.3d 146, 152 (3d Cir. 1999)).

Therefore,

IT IS ORDERED denying Defendant Maricopa County's Motion for Summary Judgment and Motion to Exclude, filed January 14, 2026.

Turning now to the AMC's Motions, AMC asks the Court to (1) find that the current use of the Property is a movie theater, (2) deny the County's Motion for Summary Judgment and Motion to Exclude, (3) grant summary judgment in favor of AMC, and (4) find that the value of the Property is $7,800,000 as opined by AMC's expert. (Cross-Mot., at 28.) The Court has already addressed AMC's first two requests.

The County's appraiser, John Wyatt, applied the income approach to the 17 operating auditoriums and the sales approach to the 13 non-operating auditoriums. (Def.'s Mot., at 14; DSOF ¶33, *undisputed*.) Mr. Wyatt blended his income and sales comparison approach valuations to arrive at his opinion of value. (DSOF ¶35, *undisputed that Mr. Wyatt blended his approaches to value*.) Mr. Wyatt valued the Property at $10,900,000. (PSOF ¶7, *disputed that Mr. Wyatt valued the Property using a highest and best use analysis*; DSOF, Exh. 3 at MC-DV_001120–21.)

AMC seeks to exclude Mr. Wyatt's opinion and testimony because Mr. Wyatt did not value current use but his estimation of highest and best use of a 17-screen movie theater and a church or government building. (Cross-Mot., at 18.)

As to Mr. Wyatt's sales comparison approach for the non-operating portion of the Property, AMC contends that Mr. Wyatt did not use reliable market data, used the same market adjustment for non-theater sales as theater improved sales, did not consider costs to convert the Property, and made no size adjustments for comparable sales. (Cross-Mot., at 23–24.)

As to Mr. Wyatt's income approach for the operating portion of the Property, AMC contends that Mr. Wyatt did not use current leases that reflect market rents, applied a capitalization rate based on sales from his flawed sales comparison approach, and made adjustments unsupported by facts or analysis. (Cross-Mot., at 24–26.)

The County contends that Mr. Wyatt did not apply highest and best use but current use because he valued the non-operating portion with the sales approach using vacant, non-operating movie theaters not those with a retail classification. (Def.'s Reply, at 3–4.) As the Court found above, the current use of the Property is a single-tenant movie theater.

Mr. Wyatt's appraisal does not identify a current use. (PSOF ¶87; DSOF, Exh. 3 at MC-DV_1075.) Mr. Wyatt valued the Property in what he determined was its highest and best use—part movie theater and another secondary use for the non-operating auditoriums. (PSOF ¶¶91, 93; DSOF, Exh. 3 at MC-DV_001100; DSOF, Exh. 7 at 48:9–49:4, 70:15–72:5.)

THE COURT FINDS that Mr. Wyatt's opinion of value should be precluded because Mr. Wyatt failed to value the Property based on its current use as a single-tenant movie theater.

Given the foregoing discussion,

IT IS ORDERED granting in part AMC's Cross Motion for Summary Judgment and to Exclude John Wyatt's Testimony and Opinion of Value, filed February 18, 2026 as to current use and the exclusion of Mr. Wyatt's opinion of value. All other relief requested by the Cross-Motion is denied.

Though the Court has precluded the County's expert, this does not relieve AMC of the burden to overcome the presumption that the Assessor's value is correct. *See* A.R.S. § 42-16212(B). The presumption of correctness stated in A.R.S. § 42-16212(B) may be rebutted by competent evidence. *Eurofresh, Inc. v. Graham County*, 218 Ariz. 382, 386 ¶16 (App. 2007). "Competent evidence" is evidence "derived by standard appraisal methods and techniques which are shown to be appropriate under the particular circumstances involved." *Id*. (quotations and citations omitted). Given the issues raised in Defendant's Motion regarding the expert opinion of AMC's appraiser Mr. Zaddack, trial is necessary to determine whether AMC's assertion of value overcomes the statutory presumption and to determine the value of the Property.

Therefore, the Parties shall file a revised Joint Report and lodge with it a proposed Scheduling Order for review by the Honorable Jay Polk, Arizona Tax Court Presiding Judge, **no later than August 5, 2026.**