

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

TX 2017-000099

01/24/2019

HONORABLE CHRISTOPHER WHITTEN

CLERK OF THE COURT  
T. Cooley  
Deputy

BILL STAPLES

TERRI A ROBERTS

v.

H S R E TUCSON OWNER L L C

JODI A BAIN

JUDGE WHITTEN

MINUTE ENTRY

Courtroom 612-ECB

8:30 a.m. This is the time set for Oral Argument re: Defendant's Motion for Summary Judgment. Plaintiff is present and is represented by counsel, Terri a. Roberts. Defendant is represented by counsel, Richard M. Rollman, Kevin J. Kristick, and Jodi A. Bain, with Ms. Bain appearing telephonically.

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.

8:54 a.m. Matter concludes.

LATER:

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2017-000099

01/24/2019

The Court has Defendant's Motion for Summary Judgment, filed October 1, 2018 and fully briefed as of December 24, 2018. The Court benefited from oral argument on the motion on January 24, 2019.

Different analyses apply to the 2016 and the 2017 claims. The latter turns on the resolution by this Court of the so-called "2016 case," TX2016-000873 decided *sub nomine Staples v. Core Campus Tucson, LLC*. The Court never reached the merits in that case, having ruled that, because the Complaint was untimely filed, it lacked subject matter jurisdiction. The only fact decided by the Court was the timeliness of the appeal, a fact completely immaterial to the 2017 appeal. That appeal may proceed.

The 2016 claim, now characterized as an error correction pursuant to A.R.S. § 42-16251 *et seq.*, makes the same legal argument as the 2017 appeal, that the SBOE should have applied Rule B rather than Rule A. But before the Court can reach the merits of the 2016 claim, it must decide a preliminary issue. If the party claiming error knew or reasonably should have known of it in sufficient time to assert it through a tax appeal, the error correction statutes cannot later provide a remedy. *Pima County Assessor v. Arizona State Bd. of Equalization*, 195 Ariz. 329, 336 ¶ 26 (App. 1999).

By the time the *Core Campus Tucson* appeal was filed, Plaintiff certainly knew about the SBOE's application of Rule B and that it was arguably improper. Paragraph 5.1 of the 2016 Complaint makes that very argument:

"The SBOE's decision with respect to the LPV was incorrect based on Arizona law and/or the Arizona Department of Revenue manuals and guidelines. The LPV should be increased to the noticed value based on Rule B as set forth in the Arizona statutes and other legal authority concerning LPV."

Plaintiff's late filing of that appeal meant it did not have the opportunity to argue the issue before this Court. But it knew about the issue in time to have raised it in a timely appeal. The issue cannot be revisited through the error correction process. The 2016 claim must therefore be dismissed.

Plaintiff alleges no real change in circumstances between 2016 and 2017/2018.

ACCORDINGLY, Defendant's Motion for Summary Judgment is granted.