Michael K. Jeanes, Clerk of Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2012-000122 04/09/2012

HONORABLE DEAN M. FINK

CLERK OF THE COURT
F. Chavez/S. Brown
Deputy

S F I RAINTREE-SCOTTSDALE L L C JAMES R NEARHOOD

v.

MARICOPA COUNTY KATHLEEN A PATTERSON

MINUTE ENTRY

OCH Courtroom 202

10:01 a.m. This is the time set for Oral Argument on Defendant's Motion to Dismiss. Plaintiff, SFI Raintree-Scottsdale, LLC, is represented by counsel, James R. Nearhood. Defendant, Maricopa County, is represented by counsel, Kathleen A. Patterson.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Argument is presented to the Court on Defendant's Motion to Dismiss.

IT IS ORDERED taking this matter under advisement.

10:22 a.m. Hearing concludes.

LATER:

The County points out what at first glance appears to be "a doughnut hole" in the statutes governing appeal to the Board of Equalization and from it to the Court. Until the matter is decided by the Board, a successor in interest may substitute in. Once the appeal is filed, the successor in interest may substitute in. But what if transfer of the property occurs between the Board's decision and the appeal deadline? The County argues that the language of A.R.S. § 42-

16203(A), granting the right of appeal to "any party, or the department, that is dissatisfied with" the Board's decision, precludes substitution in by the successor in interest.

The consequence of this reading of the statute strikes the Court as anomalous. It may be (to the Court's knowledge, it has never been decided whether the standing requirement of Section 42-16203(A), as opposed to the time limit, is jurisdictional; *but see Sears v. Hull*, 192 Ariz. 65, 71 ¶ 24 (1998) (standing requirement based on judicial restraint rather than lack of jurisdiction)) that the anomaly can be overcome by clever lawyering, by bringing RCC (if it still exists) in as an involuntary plaintiff under Rule 19(a) and substituting it right back out under Rule 25(d). But the Court doubts that it was the legislature's intent to require such gymnastics for a successor owner to appeal an adverse Board decision, or as the County urges to prohibit it altogether. Far more natural is to read "any party" as including the successor to the party's interest in the property, a reading that does away with both the present problem and the similar one posed by *Arrowhead & Gateway, LLC v. Maricopa County*, and discussed by the parties.

Based on the foregoing,

IT IS ORDERED denying Defendant's Motion to Dismiss, filed February 8, 2012.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.