

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

TX 2011-000736

02/22/2017

HONORABLE CHRISTOPHER WHITTEN

CLERK OF THE COURT

T. Cooley

Deputy

100 VAL VISTA / MONTGOMERY L L C, et al. PAUL MOORE

v.

PINAL COUNTY

ROBERTA S LIVESAY

BART WILHOIT

MINUTE ENTRY

On November 7, 2016, this Court granted Plaintiffs' Motion for Partial Summary Judgment and denied Defendant's Motion for Summary Judgment, finding that the Plaintiffs' filing of an affidavit in compliance with ARS § 42-12152(c) satisfied the "reasonable expectation of profit" requirement.

In their competing motions for summary judgment, each of the parties had the ability to admit or contest facts asserted by the other. Plaintiff asserted that it had "filed an affidavit of agricultural use with the Pinal County Assessor..." Defendant chose not to contest that fact. Neither in its response to the Plaintiffs' Motion for Partial Summary Judgment, nor in its own Motion for Summary Judgment, did Defendant assert that Plaintiff did not file such an affidavit.

Accordingly, Defendant is estopped from now taking an opposite position.

Indeed, even absent such preclusion, the position that Plaintiff did not file such an affidavit would fail. It is uncontested that, on July 16, 2015, the day after the affidavit was executed, it was delivered to counsel for Pinal County, who was then acting as its agent. This is sufficient service to satisfy ARS§ 42-12152 (c).

Accordingly, the Court's order November 7, 2016 (filed November 15, 2016) is affirmed.

Given the above, Defendant's Motion in Limine, filed February 15, 2017, is denied as moot.