

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

TX 2017-000027

12/28/2022

HONORABLE SARA J. AGNE

CLERK OF THE COURT  
J. Holguin  
Deputy

CASTLE PHOENIX L L C

DOUGLAS S JOHN

v.

MARICOPA COUNTY

JEFFREY B MESSING

JUDGE AGNE

UNDER ADVISEMENT RULING

The Court held oral argument on November 4, 2022, regarding Defendant Maricopa County's Motion for Summary Judgment filed June 27, 2022 ("County's Motion"), and Plaintiff's Motion for Summary Judgment filed July 15, 2022 ("Cross-Motion"), as well as subsequent filings related thereto.

The Court was completing its final review of this ruling when it received Defendant's Notice of Supplemental Authority in Support of its Motion for Summary Judgment, filed December 27, 2022. Defendant's Notice did not change the Court's analysis, conclusions, or any part of this ruling, so the Court issues the ruling without need for a response to the Notice from Plaintiff. Nothing about this ruling prohibits Plaintiff from responding to the Notice in a filing should it wish to do so, however.

The Court has considered the filings—including Plaintiff's Supplemental Authority in Support of its Motion for Summary Judgment, filed November 7, 2022—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 Motion and Cross-Motion.

Castle Phoenix LLC ("Castle") owns the real property located at 4637 E. Chandler Blvd., Phoenix, AZ 85048 (the "Property"). (Defendant's Separate Statement of Facts filed June 27,

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2017-000027

12/28/2022

2022 (“DSOF”), at ¶1, *undisputed*.) The Property is leased to Kohl’s Department Stores, Inc. (DSOF ¶4, *undisputed*.) Castle has appealed the valuation of the Property for tax year 2018. (*See* Compl., filed August 2, 2017.)

The County seeks summary judgment based on Castle’s failure to present competent evidence to rebut the presumption that the Assessor’s valuation of the Property is correct. (Mot., at 1.) Castle seeks summary judgment finding that an appraiser must base his opinion on a fee simple interest and that the County’s appraiser did not do so for the Property. (Cross-Mot., at 1–2.)

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 County*, 237 Ariz. 337, 339 ¶7 (App. 2015).

The Assessor’s statutorily-derived value is presumed to be correct. 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 omitted). Standard appraisal methods and techniques include the sales comparison approach, the cost approach, and the income approach. *London Bridge Resort, Inc. v. Mohave County*, 200 Ariz. 462, 464, ¶6 (App. 2001).

Castle relies on the appraisal report by Laurence G. Allen dated January 21, 2020 (“Allen Appraisal”). (DSOF ¶3, *undisputed*; *see also* DSOF, Exh. 1.) Mr. Allen considered the cost approach, sales comparison approach, and income approach in the appraisal, ultimately concluding that the sales comparison and income approaches were most applicable. (DSOF ¶11; *see* Plaintiff’s Controverting Statement of Facts, filed August 12, 2022 (“PCSOF”), at ¶11; *see also* DSOF, Exh. 1 at 58.)

The County relies on the appraisal report by Al Nava (“Nava Appraisal”). (Plaintiff’s Statement of Facts filed July 15, 2022 (“PSOF”), at ¶8, *materially undisputed*; *see also* PSOF, Exh. 2.) Mr. Nava considered the sales comparison approach, cost approach, and income approach. (Defendant’s Response/Controverting Statement, filed August 19, 2022 (“DCSOF”), at ¶29, *materially undisputed*.)

The County asserts that the Allen Appraisal on which Castle relies is insufficient to rebut the presumption under A.R.S. § 42-16212(B). (Mot., at 1.) The County contends that the Allen Appraisal appraised the Property as if it were vacant. (Mot., at 3.) The County also contends that Mr. Allen did not apply standard appraisal methods correctly. (Mot., at 7.)

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2017-000027

12/28/2022

Castle contends that the Nava Appraisal is not competent evidence to allow the County to proceed to trial. (Cross-Mot., at 9.) Castle contends that the Nava Appraisal appraised the leased fee interest not the fee simple interest of the Property. (Cross-Mot., at 9.) Castle asserts that Mr. Nava's valuation of the leased fee interest does not meet Arizona's requirement of valuing the fee simple interest and led to an inflated value. (Cross-Mot., at 13, 15.)

Disputed facts remain surrounding the appraisals that preclude summary judgment for either Party. *See Eurofresh*, 218 Ariz. at 387, ¶23 (mixed question of fact and law as to proper application of standard appraisal methods). For example, the Parties dispute the following:

- The proper interest to be appraised (DSOF ¶¶6, 8; PCSOF ¶¶6, 8; PSOF ¶¶7-9; DCSOF ¶¶7-9);
- The proper method(s) of appraisal (DSOF ¶¶10-11; PCSOF ¶¶10-11);
- Whether the appraisals used comparable properties in their analysis (DSOF ¶¶13, 14; PCSOF ¶¶13, 14; PSOF ¶14; DCSOF ¶14); and
- How the appraisals accounted for leases (DSOF ¶¶10, 17; PCSOF ¶¶10, 17).

**THE COURT FINDS** that both Parties have come forward with appraisals to justify their positions. Summary judgment is not the appropriate setting in which to make factual determinations and weigh each appraisal. These determinations are more properly addressed at trial.

**IT IS ORDERED denying** Defendant Maricopa County's Motion for Summary Judgment.

**IT IS FURTHER ORDERED denying** Plaintiff's Motion for Summary Judgment.

**IT IS FURTHER ORDERED setting** a Trial Setting Conference on **January 20, 2023, at 9:45 AM (15 minutes allotted) on Court Connect.**

**Please join the hearing via:**

<https://tinyurl.com/AZtaxcourt>

You may need to type the link directly into your browser in lieu of clicking.

You can also dial in using your phone.

Phone: +1 917-781-4590 and Conference ID: 642 102 793#

You may wish to download the Microsoft Teams application first before using the above link or typing it into your browser; for more on Court Connect, please visit:

<https://superiorcourt.maricopa.gov/court-connect>