

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2010-000726

01/09/2014

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

E & V INVESTMENTS L L C

DONALD P ROELKE

v.

MARICOPA COUNTY

DAVINA DANA BRESSLER

MINUTE ENTRY

Courtroom 202 – Old Courthouse

10:01 a.m. This is the time set for an Oral Argument on Defendant's Motion for Summary Judgment. Plaintiff is represented by counsel, Donald Roelke. Defendant is represented by counsel, Davina Dana Bressler.

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

Argument is presented to the Court.

For the reasons stated on the record,

IT IS ORDERED granting Defendant's Motion for Summary Judgment. The Court will set forth its findings in more detail separately.

IT IS FURTHER ORDERED vacating the trial scheduling conference set today.

10:15 a.m. Matter concludes.

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LATER:

As referenced above, the Court sets forth its findings as follows.

The Court is not concerned with the technical lack of separateness in the County's statement of facts; especially in light of the brevity of the motion, the distinction between facts and argument is clear.

Plaintiff's appraisal states that it is as of October 27, 2010. The date of value for tax year 2011 is January 1, 2010. To be admissible, an appraisal must be based on the value as of that date, and may not include facts that were not available on that date. *SMP II Ltd. P'ship v. Arizona Dept. of Revenue*, 188 Ariz. 320, 324 (App. 1996) (citing *State Tax Comm. v. United Verde Extension Mining Co.*, 39 Ariz. 136, 141 (1931)). Data from later in 2010 appears throughout the appraisal, and is used to demonstrate a substantial reduction in value during that year. The Court is not persuaded that a January 1, 2010 value can be mathematically derived from the appraisal, as the County attempts to do. But it is Plaintiff's responsibility to produce admissible evidence, and it has not done so.

As the deadline for disclosure of experts and their opinions passed more than a year ago, the Court finds that Plaintiff has presented no admissible evidence as to the value of the property on January 1, 2010, and that it therefore has not overcome the statutory presumption of correctness.

Accordingly, and for the reasons set forth on the record at oral argument,

IT IS ORDERED granting Defendant's Motion for Summary Judgment filed November 5, 2013.

IT IS FURTHER ORDERED directing Defendant to lodge a form of judgment and file any Application and Affidavit for Attorney's Fees and Statement of Taxable Costs (if applicable) by February 5, 2014.

Arizona Tax Court - ATTENTION: eFiling Notice

Beginning September 29, 2011, the Clerk of the Superior Court will be accepting post-initiation electronic filings in the tax (TX) case type. eFiling will be available only to TX cases at this time and is optional. The current paper filing method remains available. All ST cases must continue to be filed on paper. Tax cases must be initiated using the traditional paper filing method. Once the case has been initiated and assigned a TX case number, subsequent filings can

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2010-000726

01/09/2014

be submitted electronically through the Clerk's eFiling Online website at
<http://www.clerkofcourt.maricopa.gov/>

NOTE: Counsel who choose eFiling are strongly encouraged to upload and e-file all proposed orders in Word format to allow for possible modifications by the Court. Orders submitted in .pdf format cannot be easily modified and may result in a delay in ruling.