

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2004-000759

04/23/2007

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT  
S. Brown/T. Tankersley  
Deputy

TARGET CORPORATION

PAUL MOORE

v.

MARICOPA COUNTY, et al.

HEATHER L CANNON

**TRIAL VACATED**

9:35 a.m. This is the time set for Oral Argument on Defendant's Motion For Summary Judgment, Plaintiff's Cross-Motion For Summary Judgment and Defendant's Motion To Strike Plaintiff's Cross-Motion For Summary Judgment. Plaintiff is represented by counsel, Paul Moore. Defendant is represented by counsel, Heather Cannon.

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

For the reasons stated on the record,

IT IS ORDERED denying Defendant's Motion to Strike Plaintiff's Cross-Motion for Summary Judgment.

Oral argument presented to the Court.

IT IS ORDERED taking this matter under advisement.

Both parties agree on the record that no trial is necessary and that the matter can be resolved by the Court's ruling on the respective motions.

IT IS ORDERED vacating the trial date set on May 15, 2007.

10:15 a.m. Matter concludes.

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**LATER:**

**UNDER ADVISEMENT RULING**

**(Defendant's Motion For Summary Judgment and Plaintiff's Cross-Motion For  
Summary Judgment)**

The issue in this case is the effect of a change in property valuation subsequent to filing of an appeal to the State Board of Equalization. Plaintiff asserts that the Board's determination of full cash value is the value to be applied to the property by the County. The County asserts a jurisdictional argument: the Board's jurisdiction is limited to the review of petitions timely filed, and consequently a change in valuation, unless itself timely appealed, effectively moots the Board's decision.

Inherent in the concept of an appeal is that the body from which appeal is taken yields its jurisdiction to the appellate body. This is just as true in the administrative sphere as in the judicial branch: the lower and higher bodies cannot be allowed to operate at cross purposes, lest the appeal be rendered nugatory. The Supreme Court's analysis in *Continental Casualty Co. v. Industrial Commission*, 111 Ariz. 291 (1974), is instructive. The lower body retains jurisdiction as to only those matters not involved in the appeal. *Id.* at 295. In *Continental Casualty*, the issue was whether the appeal of a grant of temporary partial disability benefits divested the Commission of authority to grant permanent benefits. The Court held that the Commission has two functions, and that the appeal of one (the dispute between the claimant and the insurance carrier) did not divest it of jurisdiction over the other (the general administrative function of ruling on disability). *Id.* Here, the appeal deals with the valuation of the property. That the pre- and post-change valuations differ by the inclusion in the latter of buildings absent when the former was prepared does not change this because Arizona employs the unitary system of valuation, in which land and buildings are assessed as one. *Transamerica Development Co. v. Arizona Dept. of Revenue*, 107 Ariz. 396, 399 (1971). A.R.S. § 42-16162 confers upon the State Board broad power to increase or decrease valuations and to change classifications, expressly empowering it to review and consider all competent evidence relating to full cash value, regardless of who filed the appeal. This power would inevitably be impeded if the assessor retained jurisdiction to change its own valuations during the pendency of the appeal and thereby rendered the appeal nugatory. Yet the County affirmatively argues that such is the case, that its Notice of Change stripped the Board of effective jurisdiction. This is not permitted. *Whitfield Transportation v. Brooks*, 81 Ariz. 136, 141 (1956); *Castillo v. Industrial Commission*, 21 Ariz.App. 465, 468 (1974). It must follow that the taxpayer's appeal of a valuation to the Board deprives the assessor of authority to make further changes in the valuation of that property while the Board exercises its appellate jurisdiction. This interpretation permits the assessor to ask the

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Board to make a desired change, subject to the provisions of A.R.S. § 42-16162(B); in that event, fundamental principles of due process would allow the taxpayer to respond to any new arguments raised by the assessor notwithstanding A.R.S. § 42-16056(D).

Therefore, IT IS ORDERED:

1. Defendant's Motion for Summary Judgment is denied.
2. Plaintiff's Cross-Motion For Summary Judgment is granted.