

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2006-000221

04/24/2007

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT  
S. Brown  
Deputy

SAFEWAY INC, et al.

PAUL J MOONEY

v.

MARICOPA COUNTY, et al.

ROBERTA S LIVESAY

MINUTE ENTRY

The Court has received the County's Motion For Reconsideration. The County's Motion To Dismiss Second Claim made two distinct arguments. The first was that mandamus relief itself was unavailable; the second was that Messrs. Russell and Schweikert were not proper defendants pursuant to A.R.S. § 42-16208, which governs valuation appeals to the Tax Court. The County's request to dismiss the individuals was based only on the second argument, not on the first. The Court concluded that the second argument was erroneous. As the Court ruled, although mandamus relief could not be granted, the individuals were proper defendants in that Rule 2(a)(1) Of the Rules of Procedure for Special Actions requires that individual officeholders be named in an action for mandamus relief, a remedy distinct from the underlying valuation appeal and therefore not implicating Section 16208. The argument the County now raises that naming Messrs. Russell and Schweikert was improper because the mandamus action against them was without merit did not appear until the County's Reply. Nonetheless, it appears that with the mandamus request out of the case, there is no reason to retain Messrs. Russell and Schweikert in the caption. In accordance with Rule 7.1(e), the Court allows Plaintiff ten days to file a Response, if it desires, to retain the two individuals in the caption.

Therefore, IT IS ORDERED:

1. Granting Defendant Maricopa County's Motion For Reconsideration.
2. Plaintiff may file a Response no later than **May 4, 2007**.