

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2006-000438

03/19/2007

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT  
S. Brown  
Deputy

TP COMMERCIAL PROPERTIES LLLP, et al.

FRANKLYN D JEANS

v.

MARICOPA COUNTY

WILLIAM D RISKE

MINUTE ENTRY

11:00 a.m. This is the time set for oral argument on Defendant's Motion To Dismiss Not Timely Filed. Plaintiffs are represented by counsel, Franklyn Jeans. Defendant is represented by counsel, William Riske.

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

Defendant's Motion To Dismiss is argued to the Court.

IT IS ORDERED taking this matter under advisement.

11:20 a.m. Matter concludes.

**LATER:**

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2006-000438

03/19/2007

UNDER ADVISEMENT RULING  
(Defendant's Motion To Dismiss Not Timely Filed)

Plaintiff filed this valuation claim on December 18, 2006 for the 2007 valuation of their property. A.R.S. § 42-16201(A) provides that valuation appeal shall be filed on or before December 15. This Court has consistently followed *Pesqueira v. Pima County Assessor*, 133 Ariz. 255, 257 (App. 1982), in treating the statutory deadline of December 15 as jurisdictional. *Seafirst Corp. v. Arizona Dept. of Revenue*, 172 Ariz. 54, 59 (Tax 1992); *Read v. Arizona Dept. of Revenue*, 166 Ariz. 533, 535 (Tax 1991); *Ahir v. Maricopa County*, 164 Ariz. 532, 533 (Tax 1990). Plaintiffs' analogy to the statute of limitations is not well-founded. A statute of limitations is not jurisdictional in civil actions. *Osuna v Wal-Mart Stores, Inc.*, -- Ariz. --, 151 P.3d 1267 n.4 (App. 2007); *see also* Rule 8(c) (statute of limitations included in list of affirmative defenses). As Plaintiff notes, its primary purpose is to protect defendants and the courts from stale claims. Such a purpose is plainly absent from A.R.S. § 42-16201(A). Rather, the legislature has created, as it is free to do, an absolute bar to the Court's consideration of any appeal filed after the deadline. No due process concerns are implicated here: it is not suggested that Plaintiff was unaware of the result of the administrative proceedings until the deadline had passed, or that any other action by the County resulted in deprivation of Plaintiff's right to appeal. The Court is therefore bound by the statute.

The result is unquestionably harsh. However, the Court may not use its power in equity to override the express command of law.

Therefore, IT IS ORDERED Defendant's Motion to Dismiss Not Timely Filed is granted.