

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2007-000506

05/05/2009

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT
S. Brown
Deputy

ROY D PIERPOINT, et al.

ERIC D GERE

v.

MARICOPA COUNTY

DOMINGOS R SANTOS

UNDER ADVISMENT RULING

(Plaintiff's Motion For Partial Summary Judgment)

Neither party disputes that the relevant documents, the Complaint and the various Notices of Decision, say what they say. It is clear enough that the State Board of Equalization valued all nine of Plaintiff's parcels in Docket No. 07460-07-07 (with or without an "M"). The sole issue is whether all nine have been properly appealed. A.R.S. § 42-16207 requires that "the property which is the subject of the appeal must be identified in the notice of appeal in order for jurisdiction to attach in the Superior Court.... A notice of appeal which does not provide sufficient information to identify the subject property is an incomplete and inadequate notice of appeal." *Ahir v. Maricopa County*, 164 Ariz. 532, 533 (Tax 1990) (interpreting former A.R.S. § 42-177(A), substantively identical to the present statute). This is a substantive pleading requirement beyond the general rule of notice pleading. The Court therefore examines, within the context of Plaintiffs' Motion for Partial Summary Judgment whether the Complaint and Notice of Appeal uniquely identifies the property whose valuation is being appealed.

Plaintiffs' Complaint and Notice of Appeal states at paragraph 1, "This is an appeal of a decision (the 'Decision') of the Arizona State Board of Equalization ('SBOE') mailed October 15, 2007 in Docket No. 07460-07-07, concerning certain real property ('Subject Property') located in Maricopa County, Arizona." "Certain real property" could refer to one parcel or many, so this paragraph leaves it unclear whether all or fewer than all of the valuations determined under that docket number are being appealed. Paragraph 2 continues, "In the

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2007-000506

05/05/2009

Decision, the SBOE determined the Full Cash Value of the Subject Property for Tax Year 2008. A copy of the Decision is attached as Exhibit A.”

The Court turns to Exhibit A and the SBOE Notices of Decision. Each of the nine parcels comprising Docket No. 07460-07-07 is the subject of an individual Notice of Decision. Exhibit A is one of these individual notices, specifically the one dealing with parcel number 401-72-028B. There is also a common Notice of Decision in Docket No. 07460M-07-07. On its face, that document identifies only parcel number 401-72-028B, and states the full cash value of only that parcel. However, it has a second page, headed “State Board of Equalization Multiple Parcel Decision Listing.” This page shows all nine parcels with the SBOE determination of their values, under Docket No. 07460M-07-07. Had the Multiple Parcel Decision Listing, or all nine of the individual parcel Notices of Decision, been attached to the Complaint, or had reference been made to Docket No. 07460M-07-07, it would have been clear that Plaintiffs were appealing all nine valuations. Arguably, had Plaintiffs not attached Exhibit A at all, bare reference to the docket number would imply appeal of the full decision (though that may not be the soundest reading of *Ahir*, and the Court takes no position on whether identifying a docket number which would itself uniquely identify the property is adequate). Plaintiffs were at the same time too specific and not specific enough. They left off the “M,” did not attach the multiple parcel notice, and attached only one of the individual notices (without any indication that this was merely the “lead” parcel). However, the Complaint says in so many words that the decision being appealed is the one attached as Exhibit A, which addresses the valuation of parcel number 401-72-028B and no other.

The Complaint is therefore at best ambiguous as to whether only parcel number 401-72-028B, the sole subject of Exhibit A, or all the parcels addressed by the SBOE in Docket No. 07460-07-07 have been properly appealed by the Complaint and Notice of Appeal. It is Plaintiffs’ burden to supply the unique identification of the property which is the subject of the appeal.

Therefore, Plaintiffs’ Motion for Partial Summary Judgment is denied.