

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2008-000518

09/16/2013

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

SCOTTSDALE 101 ASSOCIATES L L C

BRIAN W LACORTE

v.

MARICOPA COUNTY

ROBERTA S LIVESAY

BRUNN W ROYSDEN III

UNDER ADVISEMENT RULING

The Court took Defendant's Motion for Summary Judgment under advisement following oral argument on September 4, 2013. Upon further consideration, the Court finds as follows.

A.R.S. § 42-13201 states, “‘shopping center’ means an area that is comprised of three or more commercial establishments, the purpose of which is primarily retail sales, that has a combined gross leasable area of at least twenty-seven thousand square feet, that is owned or managed as a unit with at least one of the establishments having a gross leasable area of at least ten thousand square feet and that is either owner-occupied or subject to a lease that has a term of at least fifteen years.” The statute defines a shopping center as *an* area, notwithstanding that part of it has a purpose different than the primary purpose. It follows that, if the property meets the statutory requirements for a shopping center, then it must be treated as one area, not as multiple areas, and the relevant purpose is the purpose of the area as a whole, not of individual components. A.R.S. § 42-12002(1)(b), to which Plaintiff appeals, is not analogous. It establishes class 2(R) classification for property “primarily used” for specified agricultural purposes, but does not use this qualification to define the entirety of the property; there is thus nothing incongruous about assessing the part of the property dedicated to the primary use as class 2(R) and the remainder as something else. The shopping center statute, on the other hand, defines the shopping center as the entire area, including those portions used for purposes other than retail sales. (Indeed, A.R.S. § 42-13206 expressly includes as part of the land of a shopping center certain parking lots and common areas, which are obviously not used for retail sales.) The

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language of the statute makes the shopping center a single, indivisible entity for purposes of taxation.

Plaintiff does not appear to raise any other issues. It acknowledges that the theatre “is one of the improvements in Northeast Phoenix collectively known as ‘Scottsdale 101,’” response at 2:8-9, so there is no *Nordstrom*-type issue of whether it is part of the shopping center. Nor apparently is there a dispute whether Scottsdale 101 itself is a shopping center, even when determination of its primary purpose includes the theatre (in other words, inclusion of the theatre’s purpose does not turn the primary purpose of the property as a whole into something other than retail sales). It therefore cannot be given a mixed assessment ratio.

Based on the foregoing, as well as the County’s arguments in its briefs and oral argument,

IT IS ORDERED granting Defendant’s Motion for Summary Judgment filed April 11, 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 by October 11, 2013.

IT IS FURTHER ORDERED vacating the trial scheduling conference set March 20, 2014 in this division.