

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2008-000519

06/23/2014

HONORABLE DEAN M. FINK

CLERK OF THE COURT  
S. Brown  
Deputy

VESTAR DRN - OPCP L L C

BRIAN W LACORTE

v.

MARICOPA COUNTY

ROBERTA S LIVESAY

BRUNN W ROYSDEN III

MINUTE ENTRY

The Court has read and considered Defendant's Motion for Summary Judgment filed May 5, 2014, Plaintiff's Response filed June 9, 2014, and Defendant's Reply filed June 17, 2014.

The Court holds to its opinion in *Scottsdale 101 Associates*. 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." It is *an* area, notwithstanding that parts of it have a purpose other than the primary purpose, and must be taxed according to the statutory formula as a single entity. Plaintiff's argument that the primary purpose test applies only to the three or more commercial establishments, apart from ignoring the serial comma following "establishments," does not affect the definition of a shopping center as a single area; in fact, by removing the primary purpose test from the shopping center as a whole it makes the statute apply more widely to an area with any primary purpose as long as it contains at least three commercial establishments devoted primarily to retail sales. That other types of properties are given mixed assessment ratios is immaterial, as the language requiring unitary treatment of shopping centers is, to the Court's recollection, unique to the shopping center statute.

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Accordingly,

**IT IS ORDERED** granting Defendant's Motion for Summary Judgment.

**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 July 15, 2014.

Arizona Tax Court - ATTENTION: eFiling Notice

Beginning September 29, 2011, the Clerk of the Superior Court will be accepting post-initiation electronic filings in the tax (TX) case type. eFiling will be available only to TX cases at this time and is optional. The current paper filing method remains available. All ST cases must continue to be filed on paper. Tax cases must be initiated using the traditional paper filing method. Once the case has been initiated and assigned a TX case number, subsequent filings can be submitted electronically through the Clerk's eFiling Online website at <http://www.clerkofcourt.maricopa.gov/>

NOTE: Counsel who choose eFiling are strongly encouraged to upload and e-file all proposed orders in Word format to allow for possible modifications by the Court. Orders submitted in .pdf format cannot be easily modified and may result in a delay in ruling.