

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2011-000624

02/03/2014

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

2747 CAMELBACK L L C

DONALD P ROELKE

v.

MARICOPA COUNTY

DAVINA DANA BRESSLER

MINUTE ENTRY

The Court has read and considered Defendant's Motion for Summary Judgment filed November 15, 2013, Addendum to Defendant's Motion for Summary Judgment: Separate Statement of Facts filed December 19, 2013, Plaintiff's Response filed January 4, 2014, Amendment to Defendant's Separate Statement of Facts filed January 21, 2014, Defendant's Reply filed January 21, 2014, Plaintiff's Supplemental Response Opposing Defendant's Motion for Summary Judgment filed January 23, 2014, and Plaintiff's Response to Addendum to Defendant's Motion for Summary Judgment: Separate Statement of Facts filed January 23, 2014.

The Court was surprised to receive Plaintiff's Supplemental Response Opposing Defendant's Motion for Summary Judgment, dated two days after the County's response was filed (and thus technically a surresponse), and even more surprised to see a declaration by Ms. Tatum which, while bearing the same date as the version accompanying the original statement of facts, is quite different. The first version uses three times as the date of valuation "January 1, 2009" (the overstrikes were actually made with hand-drawn slashes, a typographical nicety the Court's word processing program cannot duplicate) and offers the opinion that the full cash value "does not exceed \$5,500,000." The second version changes the overstruck 2009s to 2011s in two places and to 2010 in the third, adds a discursion on salvage status completely lacking from the original, and gives a new opinion that the full cash value "does not exceed \$4.7 million." Neither Ms. Tatum nor Plaintiff's counsel provides an explanation for her downward revision of \$800,000 within a few hours; the \$5.5 million figure is cited in the original response, which

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bears the same date as the declarations, suggesting that the lower estimate was not yet in existence.

Apart from the obvious impairment in credibility arising from the conflicting declarations, the Court does not believe that Ms. Tatum's qualifications or her methodology was properly established. She states in both declarations that she has testified before the SBOE regarding the full cash values of commercial properties on numerous occasions. But she does not say that she testified as an expert appraiser (as opposed, for instance, to a tax consultant presenting the owner's position), and does not provide this Court with any basis to find her so qualified. Nor does she state that she used, or that she is even familiar with, standard appraisal methods and techniques. Plaintiff is correct that the presumption of correctness is overcome by contrary evidence. But that evidence has to be admissible. On the state of the record, on which the Court must rule, it can find no admissible evidence offered by Plaintiff with respect to either valuation or (even if it was preserved by being raised in the surrejoinder) classification.

Accordingly,

IT IS ORDERED granting Defendant's Motion for Summary Judgment filed November 15, 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 (if applicable) by March 3, 2014.

IT IS FURTHER ORDERED vacating the trial scheduling conference set August 13, 2014 in this division.