

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2011-000691

06/16/2014

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

HIGHLANDS RANCH DEVELOPERS INC, et
al.

DONALD P ROELKE

v.

YAVAPAI COUNTY

MARTIN JAMES BRENNAN

MINUTE ENTRY

The Court has read and considered Yavapai County's Motion for Partial Summary Judgment filed April 15, 2014, Plaintiff's Response Opposing Defendant Yavapai County's Motion for Partial Summary Judgment filed May 20, 2014, and Yavapai County's Reply thereto filed June 2, 2014.

The Court believes that *RCJ Corp. v. Dept. of Revenue*, 168 Ariz. 328 (Tax 1991), is distinguishable, and that the requirement that taxes be paid prior to becoming delinquent does apply to taxes becoming due during the pendency of the litigation. In *RCJ*, this Court expressed concern that a taxpayer, having once been delinquent in paying the tax on a parcel, would be forever barred from appealing the classification or valuation of that parcel, even if there had at the time been no disagreement with the assessor. That concern is not present with respect to taxes coming due after the disputed tax year, by which time the taxpayer would be on notice as to both the disagreement and at least the potentiality (most often the actuality) of litigation. Moreover, the effect of a tax appeal, which does not go back to years prior to the appeal, may well extend into future years. Here, although no relief with respect to 2013 taxes was sought in the complaint, in the event of a plaintiffs' verdict relief would exist as a matter of law, due to A.R.S. § 42-16002(B). It would be inconsistent with A.R.S. § 42-16210 to permit a taxpayer to gain automatically what he, through his delinquency, would have forfeited the right to seek. This Court has, in a more recent published opinion, stated that the payment of taxes as they become

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due is a condition of maintaining an action under A.R.S. § 42-16210. *Maracay Thunderbird, L.L.C. v. Maricopa County*, 224 Ariz. 385, 387 (Tax 2010) (jurisdiction subject to continued timeliness of tax payments). The Court believes that this is consistent with the precedents.

Accordingly,

IT IS ORDERED granting Yavapai County's Motion for Partial Summary Judgment (as to 112 specific parcels only), filed April 15, 2014.

As to all other parcels,

IT IS ORDERED Affirming the Scheduling Order filed January 23, 2013.