

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2012-000133

04/12/2013

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

MARANA 670 HOLDINGS L L C

JAMES R NEARHOOD

v.

PIMA COUNTY

DANIEL JURKOWITZ

MIRANDA K LUMER

UNDER ADVISEMENT RULING

The Court took Defendant's Motion to Dismiss Property Tax Appeal under advisement following oral argument on February 19, 2013. Upon further consideration, the Court finds as follows.

A.R.S. § 42-16210(B) requires the Court to dismiss an appeal if taxes for the year appealed are not paid before becoming delinquent, except if one of the two safe haven provisions is met. It is undisputed that Marana 670 Holdings paid the entirety of its 2012 tax on or before December 31, 2012, satisfying Section 16210(B)(1). (The Court assumes that what was paid on that date was actually the tax for tax year 2013.) The Court, while agreeing with the County that the plain language of A.R.S. § 42-11004 applies to all tax appeals, agrees with Marana 670 Holdings that the use of the term "delinquent" in that statute must be construed so as to be in harmony with the remedy prescribed by A.R.S. § 42-16210. The County's interpretation, under which the Court would have to dismiss the appeal if either of the two half payments is not made at least by the date of filing of the appeal, would render Section 16210 not only superfluous but in one aspect nonsensical: given that the deadline for appeal is December 15, any appeal filed between the 16th and 31st of December must be dismissed notwithstanding the December 31 safe haven. The Court reads A.R.S. § 42-16210(B) as an act of legislative clemency, allowing an otherwise barred appeal to go forward if specified conditions are met. A hypertechnical construction that would, due to the December 15 filing deadline, nearly always result in dismissal effectively with prejudice fails to achieve that end.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2012-000133

04/12/2013

For these and other reasons set forth in Plaintiff's brief and argument,

IT IS ORDERED denying Defendant Pima County's Motion to Dismiss Property Tax Appeal.