

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2012-000356

01/25/2013

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

SNOW CREEK DEVELOPMENT L L C, et al.

KARA A RICUPERO

v.

NAVAJO COUNTY

JASON MOORE

MINUTE ENTRY

The Court has read and considered Defendant's Motion and Memorandum in Support of Motion to Dismiss filed October 22, 2012, Plaintiff's Response filed November 19, 2012, and the Reply thereto filed November 29, 2012.

A.R.S. § 42-16251(3)(e) limits the scope of error correction to "a valuation ... that is based on an error that is exclusively factual in nature ... and that is objectively verifiable without the exercise of discretion, opinion or judgment." The "errors" alleged by Plaintiffs are that the Assessor used seller-carryback transactions in valuing both units and valued Unit Two commensurately with Unit One despite its lack of improvements, resulting in valuations that differ from market value. Assuming that both allegations are true, they do not constitute errors under the statute. The evidence used by an assessor in valuing property and the weight he places on each piece of evidence are quintessentially matters of discretion, not subject to objective verification. If obtaining a result that diverges from market value is a correctible error, the error correction statute would swallow the tax appeal statutes and their distinct deadlines. Moreover, the Complaint does not allege that Plaintiffs were unaware of the "errors" until it was too late to appeal the valuation, a prerequisite to error correction relief. *Pima County Assessor v. Arizona State Bd. of Equalization*, 195 Ariz. 329, 336 ¶ 26 (App. 1999).

Accordingly, and for the reasons set forth in Navajo County's briefs,

IT IS ORDERED granting Navajo County's Motion to Dismiss.

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IT IS FURTHER ORDERED directing Defendant to lodge a form of order and file any Application and Affidavit for Attorney's Fees and Statement of Taxable Costs within thirty (30) days of the filing date of this minute entry.

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.