

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2008-000785

02/03/2014

HONORABLE DEAN M. FINK

CLERK OF THE COURT  
S. Brown  
Deputy

GENERAL MOTORS CORPORATION, et al.

JEFFREY B SMITH

v.

MARICOPA COUNTY

ROBERTA S LIVESAY

**UNDER ADVISEMENT RULING**

The Court took Plaintiff's Motion for Partial Summary Judgment Re: Subject Property to be Valued in Accordance with Current Use of Single Purpose, Special Design, Research and Development Automotive Desert Proving Grounds under advisement following oral argument on January 29, 2014. Upon further consideration, the Court finds as follows.

The Court does not consider itself at liberty to declare A.R.S. § 42-11054(C)(1) unconstitutional. The Supreme Court's definitive interpretation of its language in *Golder v. Dept. of Revenue*, 123 Ariz. 260, 265 (1979), makes no suggestion that it violates the Uniformity Clause. Nor did the opinion of the Court of Appeals, which had reached the opposite conclusion, indicate that such an interpretation was mandated by the Arizona Constitution or even mention the Uniformity Clause. *Golder v. Dept. of Revenue*, 123 Ariz. 271 (App. 1978) (*rev'd by Golder, supra*).

*Golder* is clear that "market data valuation must be limited to present usage," *id.* at 265. The only exception is when the land is vacant and being held solely (the Supreme Court's word) for purposes of speculation, or put another way, there is no bona fide current usage other than investment, *id.* at 266. The County does not appear to be arguing that the current use claimed as of the date of valuation, that of an automotive testing facility, was not bona fide; indeed, it was apparently willing to so stipulate. It may very well be that the price paid for the property presages development for another, more profitable use, as the County urges. If and when that day comes, the County will be able to reclassify it accordingly. For now, as long as its current use

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remains unchanged, it must be valued on that basis. *Krausz ex rel. KGC Trust I v. Maricopa County*, 200 Ariz. 479 (App. 2001), does not lead to a contrary result. In that case, as in a case that followed it, *U-Stor Bell, L.L.C. v. Maricopa County*, 204 Ariz. 79, 81 (App. 2002), the taxpayer's use of the property prevailed only if there was no specific tax classification into which the tenant's use fell. Here, there is such a use.

As the Court observed at oral argument, that does not mean the selling price may not be used as evidence of the property's value in its current use, provided that the caveat of *Golder* is taken into account. Footnote 4 in *Golder* may be significant here. "Where the market information comes from sales of land already being developed, the prices paid are not an indication of current market value of property which will not be ready for development for a number of years. However, when the market information comes from sales of land still being held for speculation and at a stage of development comparable to the property being assessed, it is not future use which is reflected in the sales data but current value." *Id.* at 265 n.4. The Court reserves for another day limitations on evidence that may be related to this ruling.

For now, based on the foregoing,

**IT IS ORDERED** granting Plaintiff's Motion for Partial Summary Judgment Re: Subject Property to be Valued in Accordance with Current Use of Single Purpose, Special Design, Research and Development Automotive Desert Proving Grounds, filed October 24, 2013.