

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2013-000477

11/17/2015

HONORABLE CHRISTOPHER WHITTEN

CLERK OF THE COURT
H. Bell
Deputy

PINALENO FOOTHILLS L P

DOUGLAS S JOHN

v.

GRAHAM COUNTY

KENNETH A ANGLE

MINUTE ENTRY

Courtroom 201-OCH

8:35 a.m. This is the time set for Oral Argument re: pending motions for summary judgment. Plaintiff is represented by counsel, Douglas S. John. Defendant is represented by counsel, Dan Paulson.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Oral argument is presented.

Based upon matters presented to the Court,

IT IS ORDERED taking this matter under advisement.

8:45 a.m. Matter concludes.

LATER:

The Court has considered Plaintiff's Motion for Partial Summary Judgment, filed July 15, 2015, Defendant's response and Cross Motion for Summary Judgment, filed August 13, 2015, and all related pleadings. The Court benefited from oral argument on the motions on November 17, 2015.

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The issue is not the valuation of the property – the County admits that its use as low-income housing should be taken into account, and Plaintiff does not quarrel with the amount of reduction (apart from an unrelated claim for economic obsolescence, not addressed by this motion) – but whether the County was duly apprised of the property’s status.

As the Court noted in its November 18, 2014 minute entry ruling on the County’s motion to dismiss, the legislature in 2014 amended A.R.S. § 42-16255(B) to remove the requirement, established in *Pima County Assessor v. Arizona State Bd. of Equalization*, 195 Ariz. 329, 336 (App. 1999), that to qualify for relief under the error correction statutes, the taxpayer must not know and reasonably should not have known of the error. The Court of Appeals, in a recent unpublished memorandum decision of which the Court may take notice pursuant to Supreme Court Rule 111(c)(1)(C), held that the amendment was a clarification, not a revision, of the existing statute. *Edw. C. Levy Co. v. Maricopa County*, 2015 WL 2383856 ¶ 19 (App. 2015) (mem. dec.). It therefore applies to this case. The County has been apprised of the error, albeit not in time to have prevented its commission. It must correct it for years in which it was statutorily correctible.

Based upon the forgoing, Plaintiff’s Motion for Partial Summary Judgment is **granted**. Defendant’s Cross Motion for Summary Judgment is **denied**.

Motion to Strike Defendant’s Statement of Facts filed September 14, 2015 is **denied** as moot.