

ST Case Training

By

Commissioner Rick Nothwehr
Maricopa County Superior Court

I. General Process

An ST case is a property tax assessment appeal. The property owner has filed a complaint alleging that the county assessor has overvalued one or more parcels of land. In most instances, a general answer denying the complaint has been filed.

A hearing date will be scheduled, and in advance of the hearing, the court may receive a packet of information from the county assessor outlining the county assessor's opinion of value.

On the date of the hearing, the plaintiff will appear and may present a packet of information. An owner of property can represent themselves. Certain authorized tax representatives may appear to represent plaintiffs, although they are not members of the State Bar.

Defendant assessor will appear and may have counsel.

The court will call the case, make introductions, and give a brief description of the proceeding. The court should note the documents received from the parties.

After swearing in witnesses, the plaintiff should proceed by calling witnesses. A plaintiff's witnesses may include the plaintiff and an appraiser or realtor. Cross-examination by the assessor may be allowed, but is generally useless.

After the plaintiff's case, the assessor proceeds. At the conclusion of the assessor's evidence, the plaintiff may want to question the assessor. Many times, the "questioning" is more of a reply. Redirecting the plaintiff and reminding them that they will have a chance for rebuttal evidence is beneficial.

After the assessor's case, the plaintiff may offer rebuttal evidence. Focus is on a response to the assessor's testimony, and not a reminder of what has already been put into evidence.

During any witness's testimony the court can interject to ask questions. Questions may be on whether the comparables are appropriate (size, amenities, age of the structures), whether the comparables are located near the subject property, or whether there are distinctive features (view, flood plains, etc.).

At the conclusion of evidence a brief closing may be appropriate. The court may issue a ruling from the bench, or take the matter under advisement

The court must make three primary findings: Parcels, tax year and property valuation. The first two should be based solely on the complaint [paragraph 4 and paragraph 5 of the standard self service center form, form TXSC11f], but by the time of a hearing, plaintiffs confuse the issues.

II. Legal Authority

Full Cash Value: The fair market value, determined by standard appraisal methods and techniques. See A.R.S. § 42-11001(6).

Valuation Date: For real property, it means January 1 of the year preceding the year in which taxes are levied. A.R.S. § 42-11001(18).

Arizona Rules for Tax Court shall apply. Small Tax Claims have specific rules [Rules 17 to 26].

Non-Lawyer Representation: Rule 22.

Testimony under oath: Rule 25

Introduction of Evidence ["Any evidence may be received which will assist the Court"]: Rule 26

III. Hearings [Video Presentation]

Hearings are generally 20 to 30 minutes in duration. The focus of the hearing should be on the valuation date and the valuation of the property involved.

- A. Burden of Proof
- B. Rules of Evidence Do Not Apply
- C. Witnesses are Sworn

- D. Valuation Date
- E. Property Valuation: Comparable Property

IV. Minute Entries

- A. Trial Setting
- B. Trial – Finding in favor of Plaintiff
- C. Trial – Finding in favor of Defendant
- D. Trial - Under Advisement/Ruling
- E. Trial Continued
- F. Judgment Signed (with copy of Judgment)
- G. Dismissal (with copy of Order to Dismiss)
- H. Oral Argument on Motion to Dismiss
- I. Trial Vacated
- J. Case placed on Inactive Calendar

V. Other Common Issues

A. Settlements:

A great number of these cases are being settled. In some instances the court receives a stipulation to valuation, or a stipulated motion to dismiss, before the hearing date. In many instances, the parties have reached a settlement but fail to memorialize the settlement. Maricopa County courts put the matters onto the inactive calendar, directing the parties to get paperwork to the court within time limits or the matter will be dismissed.

B. Motions to Dismiss

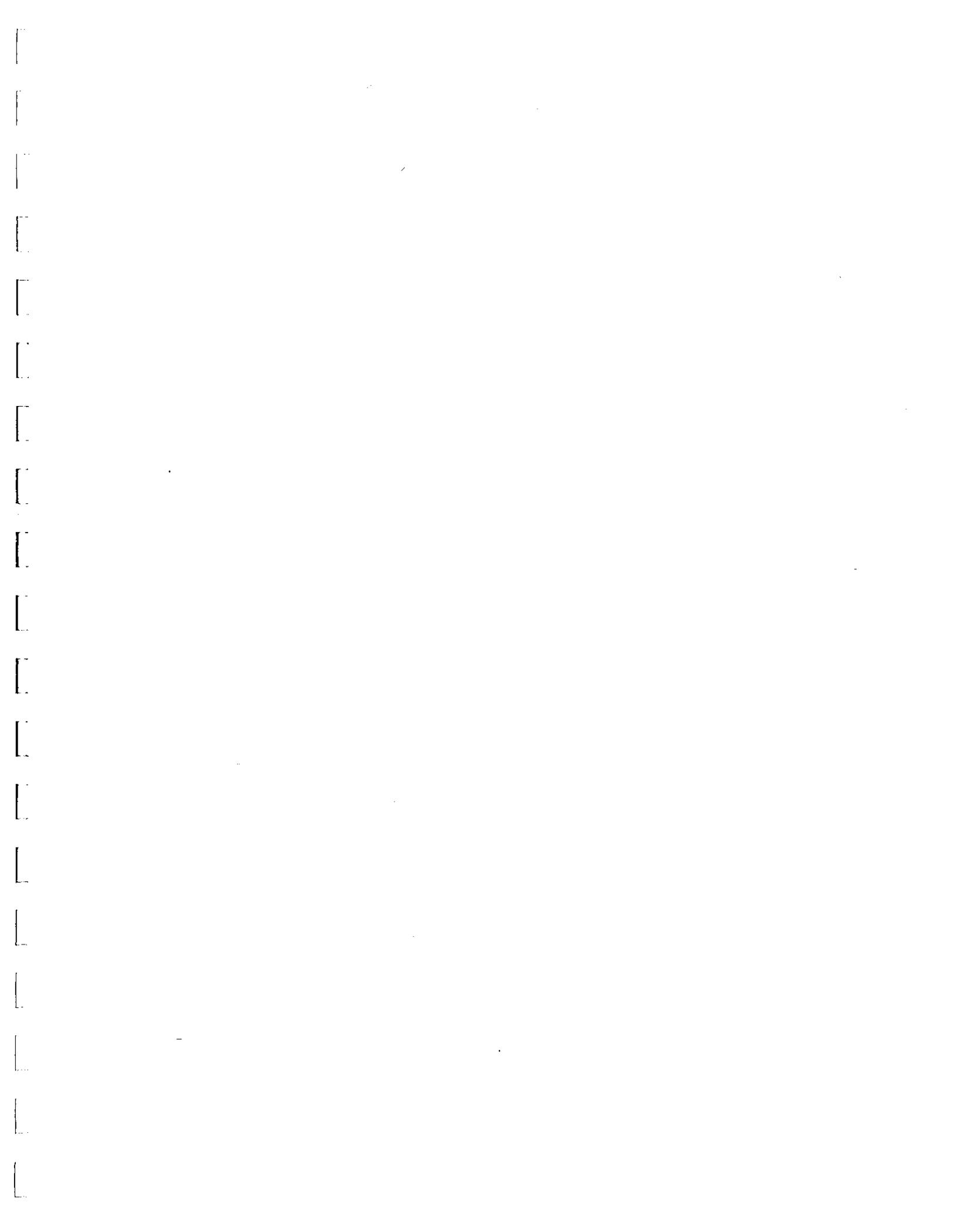
1. **Untimely Appeal:** The county may argue that the appeal was untimely because it was either a) not filed by December 15 of the tax year; or 2) not filed within the time limit following a determination of the State Board of Equalization.
2. **Non-payment of Taxes:** If the property owner did not remain current with property tax payments during the appeal, the county may argue that the matter must be dismissed.

3. Party Appealing is not Owner: The county may argue that the party listed on the appeal is not the party listed on the property ownership records. The result is usually a substitution of parties or a substitution of parcel numbers. In some instances, the appealing party sold the property, and the new owner has no interest in pursuing the appeal.

4. Motion to Reclassify Appeal:

C. Irrelevant Issues

My taxes are too high: The court's determination is property value, not the tax. The valuation may result in higher taxation, but during the hearing, the court cannot reduce the tax levy.



PROCEDURES
FOR
COURTROOM
CLERKS IN RE:
SMALL TAX
CASES

PROCEDURES FOR COURTROOM CLERK RE: SMALL TAX CASES

Overview:

An ST case is a property tax assessment appeal. The property owner has filed a complaint alleging that the county assessor has overvalued a parcel of land. The full cash value of all real and personal residential property involved does not exceed \$300,000.

The plaintiff is the owner of the property and can represent him/herself. An authorized tax representative may appear with the plaintiff. An authorized tax representative is not an attorney.

The defendant is the Assessor for the county in which the property is located. The County Assessor may be represented by a representative of the Assessor's office or by the County Attorney's Office for the county in which the property is located.

Procedures for Hearing:

A hearing date will be scheduled.

On the date of the hearing, the plaintiff will appear and may or may not have counsel. An authorized tax representative may appear with the plaintiff. The defendant, Assessor, will appear and may or may not have counsel.

The Plaintiff may present a packet of information/documents. The packet can be marked as an exhibit if the clerk is directed to do so. If documents or pleadings are presented for filing during the hearing, the document should be hand-filed using the file stamp and procedures as if filing the document in your county. It is not necessary to amend the file stamp.

The Court will call the case.

Witnesses are sworn and testify and exhibits may be marked.

Plaintiff's case will proceed; followed by Defendant's case.

Closing arguments will be presented by each side or will be waived.

At the conclusion of evidence the Court may issue a ruling from the bench, or take the matter under advisement.

The Court will make three primary findings: Parcels, tax year and property valuation.

Minute Entry Preparation and Endorsements:

The header of all minute entries shall bear the caption as follows:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

Your judicial officer is the hearing officer.

Endorsements are as follows:

Plaintiff, including address if pro per, or Plaintiff's Counsel
Authorized Tax Representative including address if present
Defendant Assessor's Office or counsel, if represented by counsel
The Board of Supervisors for the specific county

The original minute entry should reflect the file date and time the minute entry is approved by the judicial officer and ready for processing. The original minute entry, any documents or pleadings filed and any exhibits marked, offered and/or received in evidence should be mailed to --

Maricopa County Clerk of Court
Attn: WCB/Distribution
201 W. Jefferson
Phoenix, AZ 85003

If a judgment is signed, handfile the judgment with the date and time. Your County Board of Supervisors must be provided a copy of the signed judgment as well as a copy of the minute entry.

SAMPLE
MINUTE
ENTRIES FOR
COURTROOM
CLERKS IN RE:
SMALL TAX
CASES

TRIAL SETTING

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000217

02/10/2010

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
R. Smith
Deputy

CRAIG L HALBROOK, et al.

CRAIG L HALBROOK
2370 N CALLE CORAZON
HUACHUCA CITY AZ 85616

v.

COCHISE COUNTY

DAVID FIFER

RITA F HALBROOK
2370 N CALLE CORAZON
HUACHUCA CITY AZ 85616
COCHISE COUNTY BOARD OF
SUPERVISORS
COCHISE COUNTY CLERK

TRIAL SETTING

Pursuant to A.R.S. Section 42-16212

IT IS ORDERED setting this property tax appeal for trial to the Court on **April 27, 2010**
at **10:30 a.m.** before **Commissioner Nothwehr**, in the Arizona Tax Court, at the following
location:

Maricopa County Superior Court
Old Court House
125 W. Washington
108
Phoenix, AZ 85003

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000217

02/10/2010

THIS IS A FIRM TRIAL SETTING.

Length of trial will be: 30 minutes.

The tax payers are encouraged to contact their local County Assessor's Office to see if this case can be settled.

If the parties reach an agreement with the Assessor's Office, the Court shall be notified accordingly and this trial date will be canceled.

The parties are advised that any documents, photographs, maps, etc. which they present as evidence or have marked as exhibits during trial will not be returned, unless special arrangements are made with the Clerk prior to trial. These items will be discarded immediately following the court's ruling on the matter.

For general guidelines on small claims tax trials, see Superior Court internet page at:
http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/Forms/PropertyTaxCases/tax_txscl.asp

TRIAL – FINDING IN FAVOR
OF PLAINTIFF

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000244

04/14/2010

COMMISSIONER MICHAEL L. BARTH

CLERK OF THE COURT
C. Saunders
Deputy

STEVEN C HOLMES, et al.

STEVEN C HOLMES
4551 S AVENIDA CORMEON DE ORO
GOLD CANYON AZ 85218

v.

PINAL COUNTY

RICHARD V HUSK

CINDY S HOLMES
4551 S AVENIDA CORMEON DE ORO
GOLD CANYON AZ 85218
PINAL COUNTY BOARD OF
SUPERVISORS

MINUTE ENTRY

Courtroom OCH-005

1:36 p.m. This is the time set for Property Tax Appeal Trial. Plaintiff Steven Holmes appears on his own behalf. Defendant Pinal County is represented by Deputy County Attorney Richard Husk. Pinal County Assessors Justin Gauger and Yolanda Guzman are also present.

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

Steven Holmes, Justin Gauger, and Yolanda Guzman are sworn under oath.

Discussion is held.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000244

04/14/2010

Dawn Carroll is sworn and testifies.

Defendant orally moves for leave to complete an interior inspection of the subject property.

Argument is heard.

2:26 p.m. The court stands at recess.

2:35 p.m. Court reconvenes with the parties and respective counsel present.

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

Pursuant to stipulation by the parties and good cause appearing,

IT IS ORDERED allowing the Pinal County Assessor's office to access the interior of the subject property at 9:00 a.m. on April 22, 2010. Assessors are authorized only to access the basement of the home and for a period no longer than twenty (20) minutes.

IT IS FURTHER ORDERED continuing this trial to **April 28, 2010 at 4:30 p.m.** in this division.

If the parties reach an agreement with the Assessor's Office, the Court shall be notified accordingly and the continued trial date will be vacated.

2:40 p.m. Court stands at recess until April 28, 2010 at 4:30 p.m.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000244

04/28/2010

COMMISSIONER MICHAEL L. BARTH

CLERK OF THE COURT
W. Thompson
Deputy

STEVEN C HOLMES, et al.

STEVEN C HOLMES
4551 S AVENIDA CORMEON DE ORO
GOLD CANYON AZ 85218

v.

PINAL COUNTY

RICHARD V HUSK

CINDY S HOLMES
4551 S AVENIDA CORMEON DE ORO
GOLD CANYON AZ 85218
PINAL COUNTY BOARD OF
SUPERVISORS
PINAL COUNTY CLERK

MINUTE ENTRY

Courtroom: OCH 005.

4:28 p.m. Tax Trial to the Court continues from April 14, 2010. Plaintiff Steven Holmes is present on his own behalf. Defendant Maricopa County is represented by Assessors Yolanda Guzman and Justin Gauger.

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

Steven Holmes, Dawn Carroll, Yolanda Guzman, and Justin Gauger are sworn and testify.

Discussion is held regarding the tax year assessment at issue.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000244

04/28/2010

4:44 p.m. The court stands at recess.

4:50 p.m. Court reconvenes with all respective parties present.

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

Discussion continues.

IT IS ORDERED continuing today's Tax Trial to **April 28, 2010 at 4:00 p.m.** in this division.

IT IS FURTHER ORDERED that all parties may appear telephonically for the above scheduled event. **The parties are directed to contact this division at least five minutes prior to the hearing (602-506-3857).** Defendant shall coordinate the conference call. All parties appearing telephonically must be joined in a single conference call and be prepared to hold until called to testify.

The call should be placed from a telephone in an area with no background noise as this will prevent the parties from hearing the proceedings in the courtroom. The call may not be placed from a vehicle. Also, the use of cellular telephones to call into the hearing is strongly discouraged.

5:06 p.m. Matter concludes.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000244

04/29/2010

COMMISSIONER MICHAEL L. BARTH

CLERK OF THE COURT
W. Thompson
Deputy

STEVEN C HOLMES, et al.

STEVEN C HOLMES
4551 S AVENIDA CORMEON DE ORO
GOLD CANYON AZ 85218

v.

PINAL COUNTY

RICHARD V HUSK

CINDY S HOLMES
4551 S AVENIDA CORMEON DE ORO
GOLD CANYON AZ 85218
PINAL COUNTY BOARD OF
SUPERVISORS
PINAL COUNTY CLERK

MINUTE ENTRY

Courtroom: OCH 005.

3:58 p.m. Tax Trial to the Court continues from April 28, 2010. Plaintiffs Steven Holmes and Cindy Holmes are present telephonically on their own behalf. Defendant Maricopa County is represented telephonically by counsel, Richard Husk. Assessors Hector Madrid, Yolanda Guzman, and Justin Gauger are present telephonically.

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

Discussion is held. All sworn parties remain under oath from April 28, 2010.

Witness for Plaintiff, Dawn Carroll, is present telephonically and testifies.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000244

04/29/2010

To allow the parties to confer outside the presence of the Court,

4:24 p.m. The court stands at recess.

4:36 p.m. Court reconvenes with all respective parties present.

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

The parties state a settlement could not be reached.

IT IS ORDERED taking this matter under advisement.

4:37 p.m. Matter concludes.

LATER:

The Court having considered the testimony and evidence in this matter,

THE COURT FINDS Plaintiff has provided sufficient evidence to overcome the burden of proving the assessed value issued by the County Assessor's Office is inappropriate. Accordingly,

IT IS ORDERED finding in favor of Plaintiff and lowering the full cash value of subject property to \$935,000.00 for tax year 2009.

TRIAL – FINDING IN FAVOR
OF DEFENDANT

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000217

04/27/2010

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
R. Smith
Deputy

CRAIG L HALBROOK, et al.

CRAIG L HALBROOK
2370 N CALLE CORAZON
HUACHUCA CITY AZ 85616

v.

COCHISE COUNTY

DAVID FIFER

RITA F HALBROOK
2370 N CALLE CORAZON
HUACHUCA CITY AZ 85616
COCHISE COUNTY BOARD OF
SUPERVISORS
COCHISE COUNTY CLERK

MINUTE ENTRY

10:21 a.m. This is the time set for tax trial. Plaintiffs Craig Halbrook and Rita Halbrook appear on their own behalf. Defendant Cochise County Assessor is represented by David Fifer. Felix Dagmino from the Cochise County Assessor's Office is present.

OCH-#108 A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The parties are sworn and testify.

IT IS ORDERED taking this matter under advisement.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000217

04/27/2010

10:57 a.m.

LATER:

This matter having been under advisement,

THE COURT FINDS there is a statutory presumption that the assessed cash value issued by the Cochise County Assessor's Office is correct. Plaintiff must overcome the burden of proving that the Assessor's Office is incorrect. Plaintiff has failed to establish that the assessed value is incorrect. Accordingly,

IT IS ORDERED affirming the full cash value of \$120,274 set by the County Assessor on the subject property for tax year 2010.

IT IS FURTHER ORDERED parties are to bear their own court costs and attorney's fees.

TRIAL - UNDER
ADVISEMENTMNET WITH
RULING

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000545

04/23/2010

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
R. Smith
Deputy

KEVIN KIRKEENG, et al.

KEVIN KIRKEENG
3160 W LOBO RD
TUCSON AZ 85742

v.

PIMA COUNTY

TERRI A ROBERTS

MEGAN KIRKEENG
3160 W LOBO RD
TUCSON AZ 85742
PIMA COUNTY BOARD OF
SUPERVISORS
PIMA COUNTY CLERK

MINUTE ENTRY

10:31 a.m. This is the time set for tax trial. Plaintiffs Kevin Kirkeeng and Megan Kirkeeng appear on their own behalf. Defendant Maricopa County is represented by Counsel Troy Larkin. Pamela Biggers from the Pima County Assessor's Office, is also present.

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

Kevin Kirkeeng, Megan Kirkeeng and Pamela Biggers are sworn and testify.

IT IS ORDERED taking this matter under advisement.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000545

04/23/2010

11:20 a.m. Matter concludes.

LATER:

This matter having been under advisement,

THE COURT FINDS Plaintiff has provided sufficient evidence to overcome the burden of proving the assessed value issued by the County Assessor's Office is inappropriate. Accordingly,

IT IS ORDERED finding in favor of Plaintiff and lowering the full cash value of subject property to \$460,000 for tax year 2009.

TRIAL CONTINUED

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-001119

05/14/2010

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
R. Smith
Deputy

M AND I MARSHALL AND ILSLEY BANK

MICHAEL J DOYLE

v.

PINAL COUNTY

RICHARD V HUSK

PINAL COUNTY BOARD OF
SUPERVISORS

MINUTE ENTRY

The Court has reviewed the Stipulation to Continue Trial. Based upon the stipulation of the parties,

IT IS ORDERED vacating the Tax Trial scheduled for April 30, 2010 and continuing the same to **September 28, 2010 at 11:30 a.m. before Commissioner Nothwehr**, as set forth in the formal written order signed by the Court on May 4, 2010.

TRIAL VACATED

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000066

02/02/2010

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
R. Smith
Deputy

JAY LATHAR BAUGH, et al.

JAY LATHAR BAUGH
10762 E SLEEPY HOLLOW
GOLD CANYON AZ 85218

v.

PINAL COUNTY

PINAL COUNTY
31 N PINAL ST
FLORENCE AZ 85232

BEAVER CREEK / BAUGH L L C
10762 E SLEEPY HOLLOW
GOLD CANYON AZ 85218
RICHARD V HUSK
PINAL COUNTY BOARD OF
SUPERVISORS

MINUTE ENTRY

2:02 p.m. This is the time set for the Tax Trial. Plaintiff Jay Baugh is not present. Counsel Richard Husk appears telephonically on behalf of the Defendant. Alicia Cordova appears telephonically.

Courtroom-OCH 108 A record of the proceeding is made by audio and/or videotape in lieu of a court reporter.

Alicia Cordova advises the Court that she is appearing on behalf of the Plaintiff, Jay Baugh.

The Court advises Ms. Cordova that she cannot appear on Mr. Baugh's behalf.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000066

02/02/2010

Let the record reflect that a Motion to Dismiss Property Tax Appeal has been filed by the Defendant.

A response to the Motion to Dismiss shall be filed on or before **February 10, 2010** by Jay Baugh.

IT IS ORDERED vacating the trial set this date.

DIVISION STAFF REVIEW: FEBRUARY 17, 2010, to determine if this matter should be rescheduled for trial.

2:07 p.m. Matter concludes.

CASE PLACED ON INACTIVE
CALENDAR

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-001731

03/12/2010

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
C. Saunders
Deputy

REBECCA LEE PECK, et al.

REBECCA LEE PECK
9105 N DANCING SHADOW LN
KINGMAN AZ 86409

v.

MOHAVE COUNTY

DOLORES H MILKIE

PERRY RICHARD HIBBARD
9105 N DANCING SHADOW LN
KINGMAN AZ 86409
MOHAVE COUNTY BOARD OF
SUPERVISORS
MOHAVE COUNTY CLERK

MINUTE ENTRY

The Court has received notification that a settlement has been reached. As a result,

IT IS ORDERED placing this cause on the Inactive Calendar for dismissal on **June 10, 2010**, without further notice unless prior to said date a proper Stipulation to Dismiss or Judgment is filed with the Court.

Division Staff review: 06/25/10

ORAL ARGUMENT RE:
MOTION TO DISMISS

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000626

04/27/2010

COMMISSIONER MICHAEL L. BARTH

CLERK OF THE COURT
W. Thompson
Deputy

R AND M REAL ESTATE LTD PARTNERSHIP
L L P

R AND M REAL ESTATE LTD
PARTNERSHIP L L P
414 N COURT AVE
TUCSON AZ 85701

v.

PIMA COUNTY

TROY LARKIN

PIMA COUNTY BOARD OF
SUPERVISORS
PIMA COUNTY CLERK

MINUTE ENTRY

Courtroom: OCH 005.

9:04 a.m. This is the time set for Oral Argument on Defendant Pima County's Partial Motion to Dismiss. Plaintiffs Joe Rosenbaum and Rhonda Rosenbaum are present telephonically on their own behalf. Defendant Pima County is represented by counsel, Troy Larkin.

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

Argument is presented.

Joe Rosenbaum and Rhonda Rosenbaum are sworn and testify.

IT IS ORDERED taking this matter under advisement.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000626

04/27/2010

9:26 a.m. Matter concludes.

Having considered the argument presented and the related pleadings,

IT IS FURTHER ORDERED denying Defendant's Partial Motion to Compel.

DISMISSAL WITH COPY OF
ORDER TO DISMISS

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-000301

04/16/2010

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
R. Smith
Deputy

WAYNE A CASSIDY, et al.

WAYNE A CASSIDY
17855 S VIA LOMA DEL VENADO
VAIL AZ 85641

v.

PIMA COUNTY

TERRI A ROBERTS

HELEN CASSIDY
17855 S VIA LOMA DEL VENADO
VAIL AZ 85641
PIMA COUNTY BOARD OF
SUPERVISORS
PIMA COUNTY CLERK

MINUTE ENTRY

The Court has reviewed the Stipulated Motion to Dismiss. Based upon the stipulation of the parties,

IT IS ORDERED dismissing this matter with prejudice, as set forth in the formal written order signed by the Court on April 9, 2010.

MICHAEL R. JEANES, CLERK
BY *Q.L. Lable* DEP
FILED

10 APR 21 AM 11:33

1 BARBARA LAWALL
2 PIMA COUNTY ATTORNEY
3 CIVIL DIVISION
4 Terri A. Roberts/Troy E. Larkin
5 Deputy County Attorneys
6 32 North Stone Avenue, Suite 2100
7 Tucson, Arizona 85701
8 Telephone: (520) 740-5750
9 Facsimile: (520) 620-6556
10 State Bar No. 012862/024449
11 Attorneys for Defendant
12 Terri.Roberts@pcao.pima.gov
13 Troy.Larkin@pcao.pima.gov

8
9 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN THE ARIZONA TAX COURT**

11 WAYNE A. CASSIDY and HELEN CASSIDY,

Case No.: ST2009-000301

12 Plaintiffs,

ORDER TO DISMISS

13 vs.

14 PIMA COUNTY,

Assigned to: Hon. Richard Nothwehr

15 Defendant.

16
17 The parties to this action having stipulated to the entry of this Order and good cause
18 appearing,

19 IT IS ORDERED, ADJUDGED AND DECREED that this case is dismissed with
20 prejudice.

21 DATED this 9 day of April, 2010.

22
23
24 *R. Nothwehr*
25 Judge of the Arizona Tax Court
26

1 Original of the foregoing filed
2 with the Clerk of the Arizona Tax Court
3 this ___ day of March 2010.

3 Conformed copies mailed to:

4 Wayne A. Cassidy and Helen Cassidy
5 17855 S. Via Loma Del Venado
6 Vail, AZ 85641
7 Plaintiffs

7 Terri A. Roberts/Troy E. Larkin
8 PIMA COUNTY ATTORNEY'S OFFICE
9 32 N. Stone Ave., Suite 2100
10 Tucson, Arizona 85701
11 Attorneys for Defendant

11 By: _____

PIMA COUNTY ATTORNEY
CIVIL DIVISION
32 N. Stone Avenue, #2100
Tucson, AZ 85701
(520)740-5750

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JUDGMENT SIGNED WITH
COPY OF STIPULATED
JUDGMENT

Michael K. Jeanes, Clerk of Court

*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ST 2009-001596

03/22/2010

COMMISSIONER MICHAEL L. BARTH

CLERK OF THE COURT
W. Thompson
Deputy

MICHAEL G SHEARER, et al.

MICHAEL G SHEARER
10720 WILSON AVE
ALTA LOMA CA 91737

v.

MOHAVE COUNTY

DOLORES H MILKIE

DARLENE M SHEARER
10720 WILSON AVE
ALTA LOMA CA 91737
MOHAVE COUNTY BOARD OF
SUPERVISORS
MOHAVE COUNTY CLERK

JUDGMENT SIGNED - PROPERTY TAX

Pursuant to stipulation and good cause appearing,

IT IS ORDERED approving and settling formal written Judgment signed by the Court on March 16, 2010 and filed (entered) by the clerk on March 22, 2010.

Let the record reflect that the original Judgment is attached to this minute entry for copying and mailing to the County Board of Supervisors.

cc: Mohave County Board of Supervisors

Docket Code 371

Form T371

Page 1

MICHAEL K. JEANES, CLERK
BY *W. J. ...* DEP
FILED

10 MAR 22 AM 10: 20

1 Matthew J. Smith
Mohave County Attorney
2 Dolores Milkie
Civil Deputy County Attorney
3 State Bar No. 016662
315 N. 4th Street
4 P O Box 7000
Kingman, AZ 86402
5 Telephone: (928) 753-0770
Fax No.: (928) 753-4290
6 CAO.Court@co.mohave,az.us
Attorney for Defendant

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN THE ARIZONA TAX COURT**

9
10 MICHAEL G. SHEARER,
DARLENE M. SHEARER,

11 Plaintiffs,

12 v.

13 MOHAVE COUNTY,

14 Defendant.

001596
No.: ST-2009-~~1596~~

STIPULATED JUDGMENT

PROPERTY TAX APPEAL

15 The parties having stipulated to the entry of judgment and good cause appearing,
16 **IT IS ORDERED, ADJUDGED AND DECREED THAT:**

- 17 1. The 2010 full cash value for Parcel No. 214-37-671 located in Mohave County,
18 Arizona, (the "Subject Property") shall be reduced from \$221,358.00 to
19 \$140,000.00. The 2010 limited property value shall be determined pursuant to
20 A.R.S. § 42-13301.

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22 *///*

23 *///*

- 1 2. Pursuant to A.R.S. § 42-16002, the 2011 full cash value on the Subject Property
2 shall also be set at \$140,000.00.
3 3. Each party shall bear its own costs and attorney fees, if any.

4 DONE IN OPEN COURT this 6 day of March, 2010.

5 BY THE COURT:

6 
7 _____
8 COMMISSIONER, ARIZONA TAX COURT
MICHAEL BARTH

9 APPROVED AS TO FORM AND SUBSTANCE:

10 DATED this 6th day of MARCH, 2010.

11 By: Michael G. Shearer
12 MICHAEL G. SHEARER

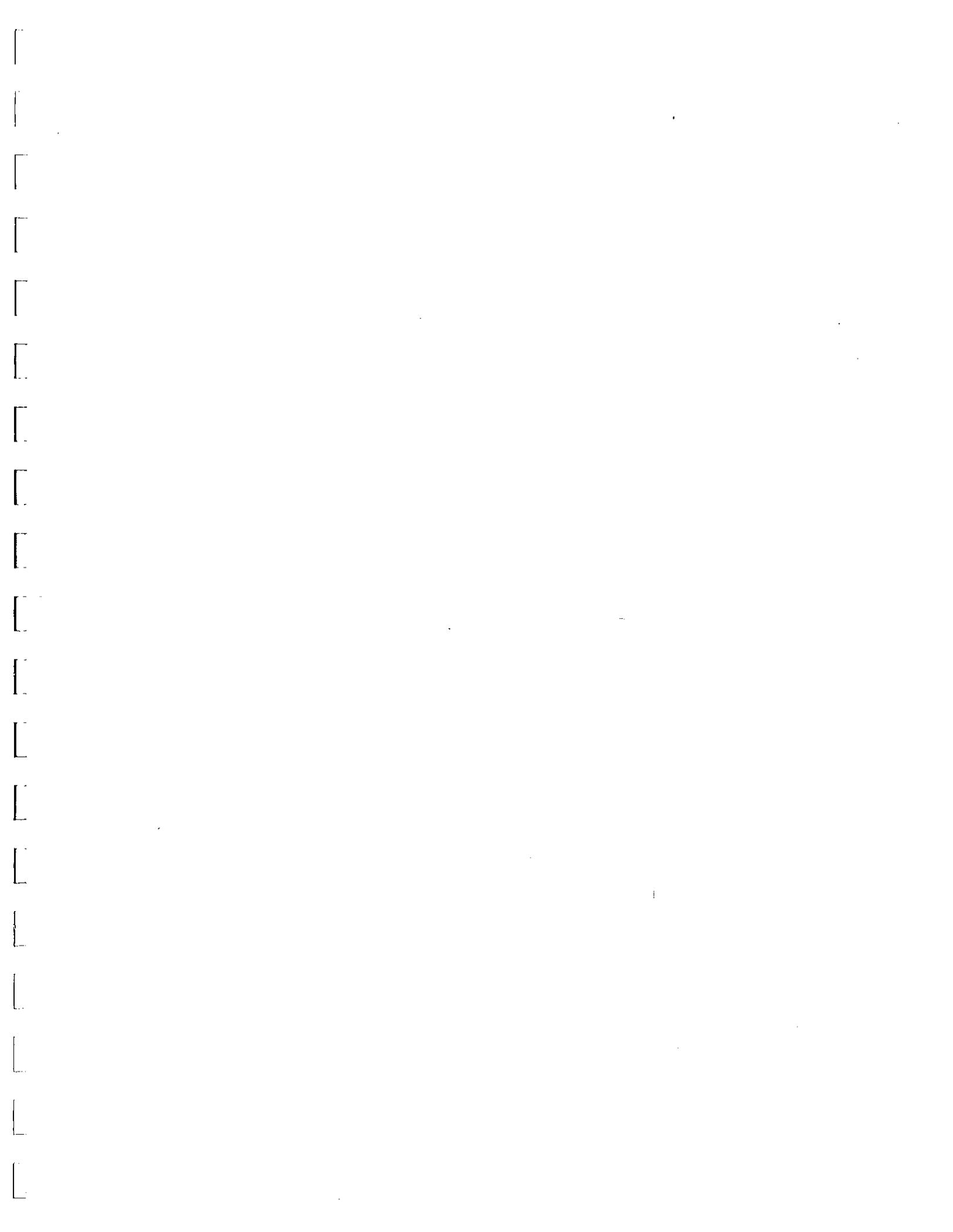
By: Darlene M. Shearer
DARLENE M. SHEARER

13
14 COPIES of the foregoing mailed
15 this _____ day of _____, 2010, to:

16 MICHAEL G. SHEARER and DARLENE M. SHEARER
17 10720 Wilson Avenue
Alta Loma, CA 91737

18 DOLORES MILKIE
19 CIVIL DEPUTY COUNTY ATTORNEY
20 P O Box 7000
Kingman, AZ 86402-7000
Attorney for Defendant Mohave County

21 By: _____
22
23
24
25



The Judicial Branch of Arizona, Maricopa County

Superior Court > Tax Court

General Information

What is a small claims tax appeal?

A taxpayer may choose to use simplified, small claims procedures if the dispute concerns the valuation or classification of property in which the property is Class Three property (your home) OR in which the full cash value of all real and personal property, as assessed, does not exceed \$1,000,000. You may also use the small claims procedure for disputes concerning all other taxes where the amount of the taxes, interest at the time of assessment and penalties in dispute is less than \$5,000.

You may choose to use the small claims procedures by indicating in the caption of the complaint that the matter is a small claims procedure in the Tax Court. The filing fee is \$142 for a small claims Tax Court appeal.

It is \$286 for any other Tax Court appeal.

Who decides my case?

Arizona property tax assessment appeals are decided by either a judge or commissioner/judge pro tem of the Arizona Tax Court. There are no juries in the small claims division of the Tax Court.

Where is the Arizona Tax Court?

101 W. Jefferson (East Court Building - 412)
Phoenix, Arizona 85003-2243
[\[view map\]](#)
(602) 506-3776

Small Claims Tax Court
125 W. Washington
Phoenix, Arizona 85003-2243

Do I need a lawyer?

You do not need a lawyer, although you may wish to hire one. Only you can decide whether you need an attorney to help with your case.

In Small Claims Tax Court, you may be represented by an attorney or by a non attorney who has been approved by the Presiding Tax Judge. For further information on how to become a non attorney representative, call the Tax Court at 602-506-3776.

Who will represent the county in my case?

Your case is against the county, which is called the defendant. An attorney for the county will represent the county.

If I act as my own attorney, what are my responsibilities?

Like a lawyer, you must gather evidence and research the legal or factual issues involved in your case. You may call witnesses and question them. You will have the right to question or cross-examine any witnesses brought by the county attorney or assessor. You also are the Arizona Tax Court's main contact on your case. If your case is settled or needs to be delayed or any other significant developments occur, you must contact the Tax Court.

You are the plaintiff (the person bringing the case) and the burden of proof rests with you. In every type of legal dispute one party has what is called the burden of proof, or the greater responsibility to prove that party's case. Arizona law presumes that the county assessor has correctly assessed or classified your property. You must prove otherwise in order to win your appeal.

You may also be a witness, giving testimony on your behalf and responding to questions from the county attorney or assessor. You may be your best witness in describing your property, how you use the property, and its current condition. You, as owner, may give the court your own opinion of the property's value or use. Even if you are not an appraiser, you know your property and can provide the Tax Court with valuable information about it.

How will I know when my case is going to be heard?

After you file the property tax appeal, you will receive notice of a hearing date for your case. The notice will be sent to the address shown on the petition. If you move, it is your responsibility to inform the Tax Court of your new address.

Tax Court small claims cases are set for trial within 6 months of filing the complaint to the Tax Court of the taxpayer's choice that the case proceed as a small claim. You will be given enough notice of the trial date to permit you to prepare for trial. The notice from the court will include the time and location of your hearing. If you do not appear for the trial, your case will be dismissed with prejudice, meaning you cannot file another appeal for the tax year in question.

Where will my case be heard?

Your case will be heard in the Downtown Court Complex.

You will be notified by mail the proper address and courtroom once your hearing has been set.

What happens if I cannot appear in court on the scheduled trial date?

If you cannot appear on the scheduled date, ask the county attorney or assessor to see if they will agree to a continuance. If both sides agree to a continuance and there is a good reason, the judge may grant it. If you do not attend your hearing and the judge has not allowed a continuance of the trial, you may lose your case.

May I negotiate a settlement after the trial date has been set?

Yes! In the time between the setting of the trial date and the trial, you may still negotiate with the county attorney or assessor to reach a settlement. Settling will save you and the county time and money. If you do settle, you must contact the Arizona Tax Court immediately.

The Judicial Branch of Arizona, Maricopa County Superior Court > Tax Court

Glossary

Assessor

The county officer charged with determining the market value and classification of property for tax purposes.

Burden of proof

You, the plaintiff, have the burden of proof to persuade the judge by a greater weight of the evidence that the assessor's valuation is too high or that the classification is wrong.

Classification

How a property is actually used determines the rate at which a property is taxed. There are different classifications of property described in Arizona's statute.

Complaint

The document you signed contesting the value or classification of the property you own or in which you have an interest.

County Attorney

The county's legal representative. The county attorney defends the county's interest in property tax cases

Defendant

The party against whom a claim is brought. In property tax disputes, this is the county that assessed or classified the property.

Full cash value

The fair market value, determined by standard appraisal methods and techniques.

Plaintiff

The party bringing the appeal - or complaint - against the county.

Presumption

The assessor's estimated market value and classification is presumed valid in property tax appeals. The burden is on the plaintiff to prove that the value differs or that the classification is incorrect.

Settlement

An agreement reached through negotiation by parties involved in a legal dispute.

Testimony

Information supplied by people involved in a dispute. Testimony is given under oath, a legally binding promise to tell the truth.

Witness

An individual with information about a legal dispute who is called to provide that information to a court.

The Judicial Branch of Arizona, Maricopa County

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Day of the Trial

What should I bring to Court?

Bring all of the evidence you wish to present, such as photographs or written reports. Make sure your witnesses are in the courtroom. There is usually an easel in the courtroom that you can use to present evidence. If you need other special equipment, such as a videotape player, blackboard or other equipment, you must make your own arrangements.

How will I know it's time for my case?

When you arrive at the courthouse, look for a posted calendar outside the courtroom or check with the judge's staff. They will tell you the order in which cases will be heard. The judge will call your case from the bench, which is your signal to come forward.

Who speaks first?

As the plaintiff, you will be asked to present your evidence first. If you bring witnesses, the county attorney or assessor will be allowed to question them. You will be allowed to question the county's witnesses as well.

Do I have to bring witnesses?

No, but it might be difficult to prove your case without information supplied by witnesses, such as an appraiser. In most Tax Court cases, the owner of the property testifies and presents an opinion of value or use. The Tax Court will probably give more weight to testimony from trained appraisers than from non-experts.

How can I make a strong presentation?

Here are some points to remember as you plan your presentation:

- Do your preparation. Make a list of key points you wish to make. Keep it with you for reference.
- Follow courtroom etiquette. Be on time. Dress neatly. Call the judge "Your Honor."
- Set the scene. The Tax Court judge has never seen your property. Tell the judge something about your property right away so the judge will understand your arguments more fully. Where is the property located? What buildings are on it? How are the buildings used? How much did you pay for it? How long have you owned it? Have you made improvements? Are there natural features, like washes, streams or timber, that affect the value or use of your property? How much would you sell it for? Describe the issues that are in dispute in the case.
- Ask specific questions of witnesses. Whether you are questioning a witness you have brought or one the county attorney or assessor has called, ask specific questions to gather information. Do not argue with witnesses.
- Keep your presentation brief and factual. If you have prepared well, you should know exactly what evidence you want to present. Do it directly and factually.
- After you have presented your evidence and called your witnesses, it will be the counties turn to present its evidence. Listen respectfully to the opposition. Do not interrupt. Make notes on any points you would like to clarify further when you get a chance to question the county's witnesses.
- Be prepared to sum up your case. After both sides have called their witnesses, you will get a chance to sum up your case before the Court. This is your chance to pull your evidence together so that the judge understands your views. Again, keep your statements brief and factual. A long speech will not improve your case if the facts do not support your view.

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How long will the hearing last?

The hearing will continue until all evidence is presented. Most Tax Court small claims hearings last about 30 minutes, sometimes more. There is no time limit, but the judge may impose reasonable restrictions.

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When will I find out if I've won my case?

Both parties will receive the Court's written decision within 60 days of the hearing.

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If I win, when will I get my refund?

Generally, the judgment will be paid by the county treasurer out of tax money collected from property taxes during the next fiscal year, unless there is enough money available in funds budgeted for that purpose by the county to allow an immediate refund. Of course, if there are any taxes still owed on the property, which is the subject of the appeal, the amount of the judgment may be credited against the amount of outstanding taxes.

The Tax Court does not make refunds. That is the responsibility of the county or state.

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Can I appeal my case?

Cases heard by the small claims tax division of the Arizona Tax Court cannot be appealed. The judge's decision is final.

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This is only a general guide. The Arizona Tax Court cannot provide assistance or legal advice.

Before filing your tax appeal, you may wish to look at other options. The county assessor may agree to an informal review, or you may file a request for a formal hearing, or you can take your case to the State or County Board of Equalization. Consult your county assessor's office for information on these options.

If you do choose to appeal in court, there are three alternatives.

- Any tax appeal may be filed in the Arizona Tax Court.
- If you are appealing the valuation of your owner-occupied residence regardless of its value, or the valuation or classification of any real estate with an assessed full cash value of one million dollars or less, or any other state or local tax of less than five thousand dollars (including penalties and interest), you may file in the Small Claims Division of the Arizona Tax Court. Hearings in the Small Claims Division are less formal, and you do not have to hire a process server (the Clerk of the Court will serve the taxing authority for you); however, there is no appeal.
- For property taxes only, you may file an appeal as a regular civil case in the Superior Court for the county in which your property is located. Contact the Clerk of the Court in the appropriate county for information on how to file. Please note that the small claims procedure is not available if you choose this route.
- The Arizona courts have no authority over the Internal Revenue Service, so if you object to your federal tax bill, contact the IRS directly.

No matter which alternative you choose, you must begin by filing a complaint with the Clerk of the Court. A suggested form is available [here](#). (If you use the suggested form and you are filing in the regular Tax Court, not the Small Claims Division, please strike through the reference to small claims on the first page.) Arizona follows what is called notice pleading, so no magic words are necessary: just explain your objection to the tax and the relief you seek as clearly as possible. Bring the completed complaint to the Probate and Tax Filing Counter in the Old Courthouse, 125 West Washington Street, 1st Floor, Phoenix, AZ 85003. A small claims complaint can be mailed to that address; however, delivering it in person avoids any risk that it will be lost in the mail. There is a required filing fee; please consult the [Clerk of the Court website](#) for the current amount.

There are certain rules that must be strictly followed or your case will be dismissed. The appeal must be filed by December 15 of the year prior to the tax year – for example, an appeal of the 2011 assessment must be filed by December 15, 2010. (This deadline may be different if you have previously appealed to the assessor or Board of Equalization; the letter you received informing you of the decision will explain the timing of your appeal.) The tax for the tax year being appealed must have been paid on time – if it becomes due while your case is pending, it must be paid promptly – and there can be no delinquent taxes for previous years still unpaid. Unless you filed in the Small Claims Division, you must have the summons and complaint served upon the taxing authority within 120 days of filing; this can be done by the county sheriff's office or by a registered process server.

Once the taxing authority has received your complaint, it will investigate and get in touch with you. Because it receives many tax appeals at around the same time, this can take several weeks or even months, so be patient. If you and the taxing authority cannot reach an agreement, you must inform the judge or commissioner assigned to your case by filing a motion to set the case for trial.

In either the Tax Court or the Small Claims Division, you may represent yourself or have an attorney represent you. (There are a few non-attorneys who have been authorized to represent clients in Small Claims Division; ask to see the person's authorization before hiring him or her.) If your case is in the Tax Court, an attorney would be advisable, as the rules of evidence and civil procedure are strictly followed. In Small Claims Division, the rules are more relaxed, and you may be more comfortable handling your case yourself. Wherever your case is heard, the burden is on you to prove the assessor is wrong. You must present evidence, which can include photographs, a formal appraisal of your property, records of comparable properties nearby, and the like, to meet this burden. The taxing authority may of course present its own evidence, so be prepared to rebut it.

May I file just one appeal for multiple parcels of property?

Yes.

How can I prove the assessed valuation of the property is incorrect?

Because the burden of proof rests with you, the plaintiff, you must present factual evidence to disprove the assessor's valuation of your property. To prove the value of the property is too high, you must present expert evidence as to its actual full cash value.

If you present an appraiser's written report of the property's value, the appraiser does not have to attend the trial to testify, if you are proceeding under the small claims tax procedures. A small claims tax trial is informal. Any evidence may be received which will assist the Court to arrive at a just and fair determination of the case. Although the Arizona Rules of Evidence govern the taking of evidence, the judge in a small claims tax case may receive any relevant evidence which the court determines to be reliable, even if the evidence would otherwise be inadmissible by strict application of the Rules of Evidence.

How can I prove my property has been classified incorrectly?

Arizona Revised Statutes, sections 42-12001 through 42-12009 describe the classes of property uses upon which tax valuation is based. All property in Arizona is classified according to its current use. If you intend to dispute the classification of your property, you need to prove how you use the property. If the assessor has changed the classification and the property has not been sold or transferred, you must prove that your property should be in a different classification. Go to the library and look up Arizona laws on classification, including A.R.S. sections 42-12001 through 42-12009. You will find the Arizona Revised Statutes in most public libraries, college libraries and all law libraries. The Maricopa County Law Library is located on the second floor of the East Court Building, 101 West Jefferson, Phoenix, Arizona 85003-2243.