



MEMORANDUM

Date: March 30, 2018

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **April 3, 2018 Agenda Item 12, continued from the March 20, 2018 Board of Supervisors Meeting Regarding Helm, Livesay and Worthington, Ltd., Amendment No. 2, to provide legal advice and representation and extend Contract term to February 16, 2019. General Fund, contract amount \$50,000.00**

I am attaching correspondence received from Pima County Assessor Bill Staples regarding a minute entry regarding TX 2014-000606, received from tax court denying the taxpayer's latest attempt to have this case dismissed.

As I stated in the March 20, 2018 Board of Supervisors meeting, this is an appropriate and legitimate use of outside counsel and recommend that Helm, Livesay and Worthington, Ltd. Contract Amendment No. 2, to provide legal advice and representation be approved.

CHH/mp

Attachment

c: The Honorable Bill Staples, Pima County Assessor

Monica Perez

From: Bill Staples
Sent: Thursday, March 29, 2018 3:18 PM
To: Chuck Huckelberry
Subject: FW: TX 2014-000606 ORDER ENTERED BY COURT 03/28/2018
Attachments: m8239132.pdf; FW: TX 2014-000606 ORDER ENTERED BY COURT 03/28/2018

Please share this as you see fit.

From: Roberta Livesay [mailto:livesay.roberta@hlwaz.com]
Sent: Thursday, March 29, 2018 3:05 PM
To: Bill Staples <Bill.Staples@pima.gov>
Cc: 'Jeffrey Hrycko' <hrycko.jeff@hlwaz.com>; 'Terry Young' <young.terry@hlwaz.com>
Subject: FW: TX 2014-000606 ORDER ENTERED BY COURT 03/28/2018

This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Hi Bill. I am forwarding a minute entry received from tax court this morning, denying the taxpayer's latest attempt to have this case dismissed. This is good news but unfortunately we cannot celebrate. I am also attaching the current scheduling order. As you can see, the expert's report is due to be disclosed on May 21. Since the board has so far not renewed our contract, we cannot continue to work on this case and will have to withdraw from representing you. We should get that accomplished via an Order signed by the court, no later than April 20, so you will have time to work with new counsel before the May 21st date.

Any chance the board will approve us or are we just out of luck?

Best personal regards,
Roberta

Roberta S. Livesay



HELM
LIVESAY &
WORTHINGTON, LTD.
Attorneys at Law

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THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN THE ARIZONA TAX COURT

TX 2014-000606

03/28/2018

HONORABLE CHRISTOPHER WHITTEN

CLERK OF THE COURT
T. Cooley
Deputy

BILL STAPLES

ROBERTA S LIVESAY

v.

T K G EL CON CENTER L L C, et al.

JODI A BAIN

MINUTE ENTRY

The Court has considered Defendant's "Motion for Judgment on the Pleadings and to Dismiss Certain Defendants," filed January 5, 2018, Plaintiff's response, filed January 24, 2018, and Defendant's reply, filed February 5, 2018.

It is well-established law that property tax is assessed against the subject property, not its owner. *Peabody Coal Co. v. Navajo County*, 117 Ariz. 335, 338 (1977), *disapproved on other grounds*, *U.S. West Communications, Inc. v. Arizona Dept. of Revenue*, 199 Ariz. 101 (2000). It is enforced by a lien on the property which, although inchoate until the levy date, is deemed to have attached on the valuation date. *Suzico, Inc. v. Maricopa County*, 187 Ariz. 269, 271-72 (App. 1996). That being said, it is obvious that the lien can be enforced only against the property owner of record at the time payment is being pursued (which is why new owners are typically substituted in). The 1350 defendants may conceivably be liable to indemnify their successor in interest with respect to the bulk of the mall, and for that reason if no other they might wish to participate. But if they choose not to, that part of the case may proceed without them. They are, however, still owners of the parcel, and so subject to the tax lien.

Plaintiff was not required to appeal the valuation of the parcel separately. It was his argument that the parcel was, and had to be valued as, part of the shopping center. It was therefore included in the shopping center appeal.

Accordingly, Defendant's Motion for Judgment on the Pleadings and to Dismiss Certain Defendants is denied.