



MEMORANDUM

Date: February 26, 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: **February 21, 2018 Letter from Mr. Michael McGrath Regarding Tax Court Litigation of the Pima County Assessor's Valuation of the Hacienda Del Sol**

In a meeting with a number of property owners and attorneys, as well as Supervisor Christy, Mr. Michael McGrath who is an owner in the Hacienda Del Sol venture indicated that the owners have now deferred a resort expansion project because of uncertainty over this tax litigation. Such is an unfortunate result, particularly at a time when the County is doing all that we can to expand the tax base through economic development.

I must assume the Hacienda Del Sol owners are reviewing the appraisal of the Assessor at \$12.8 million and will provide their appraisal, which undoubtedly will be less. Hopefully this matter can be resolved in the near future where the owners of Hacienda Del Sol have a reasonable tax predictability for the future and can proceed with their expansion plans.

CHH/lab

Attachment



MESCH
CLARK
ROTHSCHILD

mmcgrath@mcrazlaw.com

Our File No. 02013-61

February 21, 2018

Chuck Huckelberry, County Administrator
Pima County Administrator's Office
130 W. Congress Street, 10th Floor
Tucson, AZ 85701
(chh@pima.gov)

Re: Pima County Assessor's Valuation of the Hacienda Del Sol

Dear Mr. Huckelberry:

Thank you for listening to the owners of the Hacienda about the Pima County Assessor's Tax Court litigation regarding the value of our property. I provide this letter to reiterate our concerns.

BACKGROUND

The Hacienda is owned by Guest Ranch Resort II, LLC. I am one of the managing members. The Assessor valued the Hacienda \$6.24 million. We exercised our rights and took the matter to the State Board of Equalization. The State Board of Equalization revalued the property at \$3.835 million. The Pima County Assessor did not actively participate in the hearing in front of the Board of Equalization. The Assessor has now taken the valuation matter to the Arizona Tax Court. After initiation of the litigation to contest the Board of Equalization value, the Hacienda offered to agree to the Assessor's original valuation to avoid expenses and uncertainty over our tax obligation. This offer was rejected. The Assessor is seeking an even higher valuation of our property than was originally assessed, and has obtained an out-of-state appraisers' valuation for \$12.8 million.

The Assessor's actions appear to be for an inappropriate purpose for. It seems to be action taken to chill a Taxpayer's seeking redress through the tax appeal process established by the state legislature.

ISSUES

The Assessor's initiation of litigation against this Taxpayer, rather than actively participating in the proceedings before the Board of Equalization, result in the following:

1. **UNNECESSARY EXPENSE:** The legal action taken by the Assessor has resulted in increased and unnecessary expenses for us as taxpayers. The Hacienda has been required to retain private counsel. Domingos Santos, Esq. is our attorney. The Assessor's Office, represented by the Pima County Attorney, has engaged in discovery against our lender, Bank of Tucson, resulting in the Bank's incurring attorney's fees to parse through discovery sought by the Assessor, so as to not disclose confidential materials. The Bank's legal expense has been passed on to the Hacienda.
2. **DELETERIOUS ECONOMIC IMPACT:** The litigation has resulted in the owners of the Hacienda Del Sol not pursuing additional construction and development of our business because of the uncertainty brought about by the Assessor's action. Upon completion of an expansion of the Hacienda, we anticipated that the actual property tax liability would increase from our annual payment of approximately \$75,000. However, the Assessor's valuation would have raised it to roughly \$125,000, and now we face an even larger increase if the Assessor is successful in have the Tax Court accept his "litigation" valuation. The Hacienda will not go forward with contemplated additional expansion because of the lack of predictability as to how this will impact taxation.

I am advised that if the Assessor was successful with his litigation appraisal of \$12.8 million, this would result in a tax bill that would put us out of covenant with our existing mortgage lender, Bank of Tucson. The Assessor does not seem to pay any attention to the economic realities of real estate finance, and how radically different valuations impact owners, mortgage lenders and the continuing operation of commercial real estate.

The Hacienda owners appreciate and accept their responsibility to pay fair taxes. However, the Assessor's reliance on an income approach to valuation is a break with past practice, which creates uncertainty and expense in the tax appeal process. We believe the uncertainty created by the Assessor's litigation of tax matters, including the action against the Hacienda are bad for Pima County and discourage investment by existing Taxpayers or investment by businesses who are considering an investment in our community. This stigma is all too real when the Assessor takes a litigation approach, and failed to participate in the Board of Equalization process.

3. COUNTY'S RISK OF LOSS: I understand that the Assessor has initiated an unprecedented 43 lawsuits against Pima County commercial property owners. In many cases, the amount in controversy is exceeded by the legal fees and expenses involved. . More alarming, the amount in dispute may be surpassed by the County's exposure for an attorney's fee award against the County.

This economic miscalculation does not arise in the suit against the Hacienda, though the litigation is undoubtedly wasteful. If the Assessor is successful with his current litigation appraisal, the Hacienda will be faced with an increase in property tax expense of more than twice the Assessor's original valuation which the Hacienda has offered to accept.

In addition to the expenses of the Taxpayer, the impact on the public fisc is not justified. The choice of litigation rather than administrative resolution must consider the value of the Pima County Attorney's time in representing the Assessor, the \$30,000 reportedly being paid by the Assessor for a California appraiser, and the burden upon the limited resources of the Arizona Tax Court, which has been overwhelmed by the Assessor's flood of litigation.

Chuck Huckelberry
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Mr. Huckelberry, thank you for consideration of these issues. Our ownership group and our counsel, Domingos Santos, continue to be available to the Assessor, to your office, or to the County Board of Supervisors in attempting to reach a fair valuation for taxation purposes and to establish a protocol and process in Pima County that does not discourage future investment.

Sincerely,



Michael McGrath

gc

c: Steve Christy, Supervisor
Domingos Santos, Esq.
Jeff Timan
Tom Firth
Michael Stilb

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