



MEMORANDUM

Date: January 16, 2015

To: The Honorable Chair 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: **City of South Tucson Secondary Property Tax Rate and Levy Claim**

Based on direction from the Board of Supervisors, I met with the representative of the City of South Tucson taxpayers who filed a taxpayer notice of claim with the Board of Supervisors. I met with Attorney Paul Moore of Mooney, Wright and Moore, PLLC on January 12, 2015.

I indicated to Mr. Moore that the City of South Tucson's Mayor and Council, upon advice of their City Attorney, levies the secondary property tax, and the County relies on their direction to collect their tax. If the tax was not legally authorized, relief lies with the City of South Tucson.

CHH/anc

Attachments

Deborah Haro

From: Chuck Huckelberry
Sent: Wednesday, January 14, 2015 2:38 PM
To: Deborah Haro
Subject: Fwd: Pima County Notice of Claim
Attachments: Pima-PFR Notice of Claim_001.pdf; ATT00001.htm

P

Begin forwarded message:

From: Paul Moore <PMoore@azstatetaxlaw.com>
Date: January 14, 2015 at 12:41:08 PM MST
To: "Daniel.Jurkowitz@pcao.pima.gov" <Daniel.Jurkowitz@pcao.pima.gov>, "CHH@pima.gov" <CHH@pima.gov>
Cc: Kim Simonis <KSimonis@azstatetaxlaw.com>
Subject: Pima County Notice of Claim

Gentlemen,

Following on from our meeting on Monday afternoon, I filed the attached Petition for Review of the NOC with the State Board of Equalization today. We will send a copy by certified mail to Mr. Huckelberry today too.

Regards,

Paul.

Paul Moore
Mooney, Wright & Moore, PLLC
Main: (480) 615-7500
Direct: (480) 615-7503
www.azstatetaxlaw.com

PETITION FOR REVIEW OF TAXPAYER NOTICE OF CLAIM

Pursuant to A.R.S. § 42-16254

**FOR PETITIONS FILED IN MARICOPA OR PIMA COUNTY, SUBMIT TO THE STATE BOARD OF EQUALIZATION (SBOE).
IF FILED IN ANY OTHER COUNTY, SUBMIT TO THE COUNTY BOARD OF EQUALIZATION.**

- File this petition within 150 DAYS after the original filing date of the taxpayer notice of claim if dissatisfied with the Tax Officer's decision.
- **Keep a copy for your records** and mail or hand deliver one copy to either the County or State Board of Equalization.
- Deliver one copy to the Tax Officer. If mailed, send certified mail.
- Include an Agency Authorization form with this petition if the agent did not represent the taxpayer when filing the Notice of Claim.
- Complete Items 1 through 8 where applicable.

1. COUNTY Pima BOOK/MAP/PARCEL/SPLIT 118 - 22 - 176 - 0 ACCOUNT NUMBER _____

2. PROPERTY ADDRESS OR LEGAL DESCRIPTION All real property in the taxing jurisdiction of the City of So. Tucson

3. TYPE OR PRINT OWNER'S NAME AS LISTED ON TAX ROLL <u>Manuel & Gloria Valenzuela AND SEE ATTACHED</u> <u>1607 South 10th Avenue</u> <u>Tucson, AZ 85713</u>	4. MAIL DECISION TO: <u>Paul Moore</u> <u>1201 S. Alma School, Suite 16000</u> <u>Mesa, AZ 85210</u>
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5. COMPLETED BY: (Owner, Agent, or Attorney) Paul Moore, 1201 S. Alma School Road, Suite 16000, Mesa, AZ 85210

HAND DELIVERED

AGENTS ONLY: State Board of Appraisal # _____ SBOE # _____ (Pima and Maricopa Counties Only)

6. **BASIS FOR THIS PETITION:** Additional documents submitted must contain the book, map and parcel number or tax roll number and be attached to the petition. Evidence contained in this appeal could be the basis for either increasing or decreasing the valuation, changing the classification, or no change.

THIS PETITION IS BASED ON THE FOLLOWING METHOD(S) OF VALUATION: MARKET COST INCOME

Improper and erroneous collection of secondary property taxes for the 2011, 2012, and 2013 tax years. SEE ATTACHED

TAX OFFICER'S PROPOSED CORRECTION			OWNER'S OPINION OF VALUE		
N/A TAX YEAR Current Year	FROM (Currently) LEGAL CLASS _____ FCV ASSMT RATIO _____ LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed correction): LEGAL CLASS _____ FCV ASSMT RATIO _____ LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	
2013 TAX YEAR One Year Prior	FROM (Currently) LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed correction): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	
2012 TAX YEAR Two Years Prior	FROM (Currently) LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed correction): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	
2011 TAX YEAR Three Years Prior	FROM (Currently) LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed correction): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	

8. I hereby request that the proposed correction described above be reviewed by the County or State Board of Equalization and that the Board consider the provided information in making its determination. I hereby affirm that the information included or attached is true and correct.

IN PIMA AND MARICOPA COUNTIES ONLY:
 Check here if you want this appeal to be heard on the record and submit any additional written or typed information with this form. This means that **neither you nor the assessor** will appear in person before the State Board of Equalization to offer oral testimony.

X Paul Moore 01/14/15
 SIGNATURE OF PROPERTY OWNER OR REPRESENTATIVE DATE

BOARD OF EQUALIZATION DECISION	FULL CASH VALUE \$ _____	LIMITED PROPERTY VALUE \$ _____	LEGAL CLASS _____	ASSMT RATIO _____
BASIS FOR DECISION: _____				
DATE RECEIVED	DATE DECISION MAILED	CHAIRMAN OR CLERK OF THE BOARD		

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

TAXPAYER NOTICE OF CLAIM - REAL PROPERTY

Pursuant to A.R.S. § 42-16254

FOR OFFICIAL USE ONLY

Filed with the following Tax Officer:

- COUNTY ASSESSOR based on valuation or classification.
- DEPARTMENT OF REVENUE based on valuation or classification.
- COUNTY BOARD OF SUPERVISORS based on an error of tax rate.

DATE RECEIVED 10/14/14
NUMBER _____

DATE FILED: 10/10/14 NOTE: IF MAILED, SEND CERTIFIED

1. COUNTY: Pima BOOK / MAP / PARCEL / SPLIT: 118 - 22 - 1760
2. IF THIS IS A MULTIPLE PARCEL CLAIM, CHECK HERE AND ATTACH A TAXPAYER NOTICE OF CLAIM MULTIPLE PARCEL FORM (82179BB).
3. PROPERTY ADDRESS OR LEGAL DESCRIPTION: All real property in the taxing jurisdiction of the

4A. OWNER'S NAME AND ADDRESS AS SHOWN ON TAX ROLL:
Manuel & Gloria Valenzuela AND SEE ATTACHED
1607 South 10th Avenue
Tucson, AZ 85713

4B. MAIL DECISION TO: City of South Tucson.
Paul Moore
1201 S. Alma School Road, Suite 16000
Mesa, AZ 85210

5. BASIS FOR CLAIM AND REQUESTED CORRECTION:
Improper and erroneous collection of secondary property taxes for the 2011, 2012, and 2013 tax years. SEE ATTACHED

n/a TAX YEAR Current Year	FROM (Currently): LEGAL CLASS _____ FCV ASSMT RATIO _____ LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed Correction): LEGAL CLASS _____ FCV ASSMT RATIO _____ LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____
<u>2013</u> TAX YEAR One Year Prior	FROM (Currently): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed Correction): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____
<u>2012</u> TAX YEAR Two Years Prior	FROM (Currently): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed Correction): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____
<u>2011</u> TAX YEAR Three Years Prior	FROM (Currently): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____	TO (Proposed Correction): LEGAL CLASS <u>SEE</u> FCV ASSMT RATIO <u>ATTACHED</u> LPV ASSMT RATIO _____	LAND _____ IMPS _____ TOTAL FCV _____ TOTAL LPV _____

6. COMPLETED BY: (Owner, Agent, or Attorney)
Paul Moore, 1201 S. Alma School Road, Suite 16000, Mesa, AZ 85210 (480) 615-7500
NAME / ADDRESS TELEPHONE NUMBER

AGENTS ONLY: STATE BOARD OF APPRAISAL NUMBER _____ SBOE NUMBER _____
Include a current Agency Authorization Form (82130AA) with this notice. (PIMA AND MARICOPA COUNTIES ONLY)

7. Notice is hereby given to the Tax Officer that an error has occurred in the assessment of the property identified by parcel number in this claim. A description of the error and evidence to support the claim is provided above, or is attached.

Paul Moore (480) 615-7500
SIGNATURE OF OWNER OR REPRESENTATIVE TELEPHONE

DO NOT WRITE BELOW THIS LINE - FOR TAX OFFICERS'S USE ONLY

TAX OFFICER CONSENTS TO CLAIM OF ERROR.

TAX OFFICER DISPUTES CLAIM OF ERROR BASED ON THE FOLLOWING:
The alleged error is based on the validity of the tax levy, rather than the tax rate
A determination must be made by a court and not the Board of Supervisors.

NOTICE OF MEETING: A meeting to discuss your claim has been scheduled as follows. If you do not plan to attend the meeting, please notify the tax officer. (See instructions)

Jan. 12, 2015 3:00pm Pima County Administration Bldg.
Date Time Location 130 W. Congress, 10th Floor Tucson, AZ

Chuck Huckelberry, Pima County Administrator
Name and title of Tax Officer's Representative (Please Print or Type)

[Signature] 10/10/2014 520-724-8661
Signature of Tax Officer's Representative Date Telephone Number

MULTIPLE PARCEL APPEAL FORM

Owners Name	Address	Parcel No.	Notice of Value			Owner's Opinion of Value			Assessor's Decision			BOE's Decision		
			FCV	LPV	AR	FCV	LPV	AR	FCV	LPV	AR	FCV	LPV	AR
Manuel & Gloria Valenzuela	1607 S 10th Ave	118-22-1760-0												
Manuel & Gloria Valenzuela	1607 S 10th Ave	118-22-1770-1												
Librada Nunez De Higuera	303 W 38th St	119-03-0880-2												
Ernestina Pedroza	300 W 38th St	119-03-0380-7												
Julieta Uribe	344 E 30th St	118-25-0480-1												
Joy Warth	332 E 30th St	118-25-0500-4												
Jorge & Manuela Monreal	301 W 38th St	119-03-0870-1												
See attached														
All other real property in the taxing jurisdiction of the City of South Tucson.														

Signed: Paul Moore
 Paul Moore

Date: 10/10/14

TAXPAYERS' NOTICE OF CLAIM – PIMA, 2011, 2012, AND 2013 TAX YEARS

I. COMMOM FACTS AND LAW APPLICABLE TO THE 2011, 2012, AND 2013 TAX YEARS.

Pursuant to A.R.S. §§42-16251(3)(a) and 42-16254(A)(3), MANUEL B. AND GLORIA M. VALENZUELA, LIBRADA NUNEZ DE HIGUERA, ERNESTINA PEDROZA, JULIETA URIBE, JOY E. WARTH, and JORGE A. AND MANUELA MONREAL, (hereinafter “Class Representatives”), file this Notice of Claim for the 2011, 2012, and 2013 tax years on behalf of themselves and all similarly-situated real property owners and taxpayers (“Class Members”) in the taxing jurisdiction of the City of South Tucson, Arizona, to recover secondary property taxes that were improperly and erroneously imposed and collected by Pima County on behalf of the City of South Tucson, for the 2011, 2012, and 2013 tax years. Class Representatives and Class Members seek refunds of all such taxes collected by Pima County, plus interest at the legal rate and their attorneys’ fees.

At all relevant times to this claim, Class Representatives owned, and continue to own, legal and/or equitable title to real property located in the taxing jurisdiction of the City of South Tucson, Pima County, Arizona, identified by Pima County tax parcel identification numbers: 118-22-1760, 118-22-1770, 119-03-0880, 119-03-0380, 118-25-0480, 118-25-0500, 119-03-0870; and Class Members owned legal and/or equitable title to all other real property located in the taxing jurisdiction of the City of South Tucson, Pima County, Arizona, that was assessed secondary property taxes by Pima County on behalf of the City of South Tucson; collectively, all this property is referred to herein as “the Subject Property.”

Pima County is a political subdivision of the State of Arizona and is charged with the responsibility of correctly and legally valuing, classifying, levying and collecting property taxes on real property within Pima County, including the Subject Property. Pima County

assessed, levied and collected property tax on the Subject Property from the Class Representatives and Class Members for the 2011, 2012, and 2013 tax years, including a secondary property tax on behalf of the City of South Tucson that was erroneously and improperly assessed, levied and collected without legal authority. *See* A.R.S. §§ 11-401(B), 42-11001(15) and A.R.S. § 35-451, *et seq.*

This Notice of Claim should be treated as a class action pursuant to Arizona law because: (1) the class of all similarly-situated real property owners and taxpayers in the taxing jurisdiction of the City of South Tucson is so numerous that joinder of all members is impractical; (2) there are questions of law and fact common to the class that predominate over questions only affecting individual members; (3) the claims of the representative parties are typical of the class; (4) the representative parties will fairly and adequately protect the interests of the class; (5) the prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications; (6) the adjudication of the claim with respect to individual members of the class will be dispositive of the interests of other members of the class; and (7) a class action is superior to other methods available for the fair and efficient adjudication of the controversy.

A. 2011 Tax Year

For tax year 2011, Pima County erroneously and improperly assessed, levied, and collected secondary property taxes on behalf of the City of South Tucson, from the Class Representatives and Class Members in the amount of approximately \$601,000. Among other things, when assessing the Subject Property, Pima County improperly collected secondary property taxes on behalf of the City of South Tucson without the approval of the electors in violation of A.R.S. § 35-451, *et seq.*, thereby erroneously causing the Class Representatives and Class Members to pay more property taxes for the 2011 tax year than they would have otherwise been required to pay.

B. 2012 Tax Year

For tax year 2012, Pima County erroneously and improperly assessed, levied, and collected secondary property taxes on behalf of the City of South Tucson, from the Class Representatives and Class Members in the amount of approximately \$601,000. Among other things, when assessing the Subject Property, Pima County improperly collected secondary property taxes on behalf of the City of South Tucson without the approval of the electors in violation of A.R.S. § 35-451, *et seq.*, thereby erroneously causing the Class Representatives and Class Members to pay more property taxes for the 2012 tax year than they would have otherwise been required to pay.

B. 2013 Tax Year

For tax year 2013, Pima County erroneously and improperly assessed, levied, and collected secondary property taxes on behalf of the City of South Tucson, Arizona, from the Class Representatives and Class Members in the amount of approximately \$603,000. Among other things, when assessing the Subject Property, Pima County improperly collected secondary property taxes on behalf of the City of South Tucson without the approval of the electors in violation of A.R.S. § 35-451, *et seq.*, thereby erroneously causing the Class Representatives and Class Members to pay more property taxes for the 2013 tax year than they would have otherwise been required to pay.

II. CONCLUSION.

These actions resulted in improper and erroneous collection of property taxes for 2011, 2012, and 2013 totaling approximately \$1,805,000, that the Class Representatives and Class Members are entitled to recover, plus interest at the legal rate, plus their attorneys' fees. Accordingly, the Pima County Board of Supervisors should order the refund of all such erroneously collected taxes, plus interest and attorneys' fees to the Class Representatives and Class Members.