Chris DeRose, Clerk of Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-001742 09/12/2018

HONORABLE CHRISTOPHER COURY

CLERK OF THE COURT
L. Stogsdill
Deputy

MAT ENGLEHORN, et al. JONATHAN RICHES

v.

GREG STANTON, et al.

KRISTIN L WINDTBERG

RULING

The Court has reviewed and considered *Defendant's Motion for Judgment on the Pleadings No. 7 (Count Six: Blight Designation)*, filed June 22, 2018, *Taxpayers' Response to Defendant' Motion for Judgment on the Pleadings No. 7 (Count Six –Blight Designation)*, filed July 26, 2018, and *Defendant's Reply in Support of Its Motion for Judgment on the Pleadings No. 7 (Count Six: Blight Designation)*, filed August 17, 2018. Although oral argument has been requested, the Court does not believe this will be helpful as to this motion.

Defendant City of Phoenix seeks dismissal of Count Six Plaintiff's Complaint. Defendant contends that 2018 legislation – specifically HB 2126 – eliminates the legal basis supporting Count Six. Specifically, Defendant argues that under this new legislation (A.R.S. §42-6209(F)), the City's 1979 determination of blight for Phoenix's Downtown Redevelopment Area and Central Business District in which the property in question is located (the "Property") is "considered to be valid" as a matter of law.

A.R.S. § 42-6209 is the statute that governs the ability of cities and towns to abate taxes for government property improvements. Subsection F of A.R.S. § 42-6209, following the 2018 amendment, now provides in pertinent part:

> F. Before October 1, 2020, each city or town shall review each slum or blighted area that was originally designated before September 30, 2018 and in which a central business district is located. All such slum or blighted areas in which a central business district is located are considered to be valid. Pursuant to the review, the city or town shall either renew, modify or terminate the designation. If the city or town renews or modifies the original designation, the slum or blighted area designation is subject to subsequent reviews on a ten-year cycle. If the city or town fails to renew or modify the designation, the slum or blighted area designation automatically terminates from and after September 30, 2025, or five years after any subsequent review. . . .

Notably, however, the Arizona Legislature in 2018 did not amend or delete A.R.S. § 36-1474. This is the statute which sets forth the powers of municipalities. Subsection C of A.R.S. § 36-1474 provides:

> C. The designation of an area as a slum or blighted area terminates ten years after this designation unless substantial action has been taken to remove the slum or blighted conditions. The termination does not affect existing projects as described in § 35-701, paragraph 7, subdivision (a), item (xi) that are within that designated area.

Whenever possible, the Court should construe meaning of several statutes so that effect can be given to all. *Lemons v. Superior Court of Gila County*, 141 Ariz. 502, 687 P.2d 1257 (1984). "*In pari materia*" is a rule of statutory construction whereby the meaning and application of a specific statute or portion of a statute is determined by looking to statutes which relate to the same person or thing and which have purpose similar to that statute being construed; statutes *in pari materia* must be read together and all parts of the law on the same subject must be given effect if possible. *Collins v. Stockwell*, 137 Ariz. 416, 671 P.2d 394 (1983). When construing statutes relating to the same subject matter, the goal is to achieve consistency between the statutes. *Tripati v. State, Arizona Dept. of Corrections*, 199 Ariz. 222, 16 P.3d 783 (App. 2000), review denied. The court must construe statutes regarding the same subject matter to harmonize rather than contradict each other, if sound reasons and good conscience allow. *KZPZ Broadcasting, Inc. v. Black Canyon City Concerned Citizens* 199 Ariz. 30, 13 P.3d 772 (App. 2000), review denied.

THE COURT FINDS as follows:

1. By enacting A.R.S. § 42-6209(F), without repealing A.R.S. § 36-1474(C), the Legislature created the situation where both statutes need to be harmonized, if possible. It does not evince an intent that A.R.S. § 42-6209(F) solely control the analysis of this matter.

2. It is possible to harmonize the two statutes. Pursuant to A.R.S. § 42-6209(F), if an area has an existing, non-terminated slum or blighted area determination, it is considered to be valid. ("All such slum or blighted areas in which a central business district is located are considered to be valid.") However, A.R.S. § 42-6209(F) does not determine whether a previous slum or blighted determination currently is in effect. Rather, that determination is governed by A.R.S. § 36-1474(C).

3. In this case, the question for resolution is whether, between the time of the enactment of A.R.S. § 36-1474(C) in 2003 and August 8, 2018 (the time A.R.S. § 42-6209(F) became effective), the City of Phoenix's 1979 determination of blight for Phoenix's Downtown Redevelopment Area and Central Business District terminated by operation of law pursuant to A.R.S. § 36-1474(C). If this designation terminated, a municipality would not be permitted to engage in tax abatement pursuant to A.R.S. § 42-6209(F). Alternatively, if the designation remained valid at the time A.R.S. § 42-6209(F) became effective in 2018, tax abatement by a municipality could proceed according to the time limits set forth in the newly enacted statute.

4. Analysis of whether of the City of Phoenix's 1979 determination of blight for Phoenix's Downtown Redevelopment Area and Central Business District terminated requires consideration of whether "substantial action ha[d] been taken to remove the slum or blighted conditions" before the designation terminated by operation of law. This is a question of fact, not appropriately decided on a Motion for Judgment on the Pleadings.

5. An additional question of fact exists with respect to Count Six: namely, whether the City of Phoenix's reliance on the 1979 blight designation in 2016 was arbitrary, capricious and/or unreasonable. Again, this question of fact is not appropriately decided on a Motion for Judgment on the Pleadings.

Good cause appearing,

IT IS ORDERED denying Defendant's *Motion for Judgment on the Pleadings No. 7 (Count Six: Blight Designation)*, filed June 22, 2018.

IMPORTANT NOTICE REGARDING ONLINE PROFILE

Judge Coury maintains an online profile that answers many questions about courtroom and division procedures. Litigants and their attorneys should familiarize themselves with the online profile. You can find the online profile at the following link:

http://www.superiorcourt.maricopa.gov/JudicialBiographies/judges/profile.asp?jdgID=272&jdgUSID=9683.