

ARIZONA COURT OF APPEALS
DIVISION ONE

RICHARD OGSTON,

Plaintiff/Appellant

v.

ARIZONA DEPARTMENT OF
REVENUE, et al.,

Defendants/Appellees.

Court of Appeals

Division One

No. 1 CA-TX 24-0001

Arizona Tax Court

No: TX2023-000342

**DEFENDANT/APPELLEE HOSPITAL DISTRICT'S NOTICE OF
MOOTNESS**

Paul S. Gerding, Jr., Bar No. 017237

Marc R. Lieberman, Bar No. 009180

D. Tyler Milliron, Bar No. 036204

KUTAK ROCK LLP

8601 N. Scottsdale Road

Suite 300

Scottsdale, Arizona 85253

Paul.Gerding.Jr@KutakRock.com

Marc.Lieberman@KutakRock.com

Tyler.Milliron@KutakRock.com

*Attorneys for Defendant/Appellee
Hospital District No. 1 of Yuma County*

This appeal concerns the legality of a secondary property tax (the “**Tax**”) imposed by Yuma County to enable Appellee Hospital District No. 1 of Yuma County (the “**District**”) to pay its budgeted legal fees incurred in litigation with its tenant, Onvida Health, fka the Yuma County Medical Center. Appellant Richard Ogston (“**Ogston**”), whose home was assessed a minute portion of the Tax, seeks a determination that the Tax was unlawfully levied. Mr. Ogston further demands repayment of \$32.15, the portion of the Tax assessed against his home for calendar year 2023.

The Tax was levied annually from August of 2021 until July 1, 2024. *See* Declaration of Connie Uribe, M.D., attached. Notice is hereby given that as a result of an agreement reached between the District and Onvida Health to settle the litigation between them, Onvida Health and the District have remitted to the Yuma County Treasurer \$4,164,792.34, the cumulative amount of the Tax levied to date, and the Yuma County Treasurer intends to use these proceeds to credit each property which bore the Tax with the full amount of the Tax assessed that property. *See* attached Declarations of Connie Uribe, M.D. and David Alexandre. The Yuma County Treasurer’s Office has declared it is currently working to issue each property that bore the Tax with credits equal to the amount of the Tax that it was assessed. It is anticipated that these tax credits shall be issued in connection with the 2025

property tax statements issued in October of this year. *Id.* Once the Treasurer issues such credits, Appellant will be made whole and his Complaint moot.

Dated this 3rd day of July 2025.

KUTAK ROCK LLP

By: /s/ Marc L. Lieberman
Paul S. Gerding, Jr., Esq.
Marc R. Lieberman, Esq.
D. Tyler Milliron, Esq.
8601 N. Scottsdale Road
Suite 300
Scottsdale, AZ 85253
*Attorneys for Defendant/Appellee
Hospital District*

ATTACHMENT



OFFICE OF THE
COUNTY TREASURER
2550 S. 4th AVE, SUITE A
YUMA, AZ 85364
(928) 539-7781

DAVID ALEXANDRE
TREASURER

DAWN MUELLER
CHIEF DEPUTY

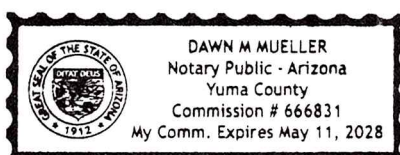
Declaration of David Alexandre

I, David Alexandre, make the following Declaration in lieu of an affidavit in accordance with Arizona Rule of Civil Procedure 80(c):

1. I make this declaration based on my personal knowledge and belief.
2. I am the current Yuma County Treasurer, having been elected to that position in 2024.
3. Commencing in August of 2021, the Yuma County Board of Supervisors imposed a secondary property tax (the “**Tax**”) on all eligible property within the geographic boundaries governed by the Yuma County Hospital District (the “**Hospital District**”) to enable the Hospital District to cover its legal fees incurred in litigation (the “**Litigation**”) brought against it by Onvida Health (formerly the Yuma Regional Medical Center) and other Administrative Expenses of the District. The Tax was levied annually from August of 2021 until July 1 2024.
4. During the Litigation, the Hospital District informed my office that, in the event the Hospital District obtained an award (or settlement) in the Litigation in excess of that necessary to compensate it for its actual damages, the Hospital District would pay such excess to Yuma County to enable the County to credit each property which bore the Tax with its pro rata share of such excess.
5. It is my understanding that, as a result of a settlement reached in the Litigation, the Hospital District has secured an agreement with Onvida Health to fully repay all of the Tax levied. The cumulative sum of the Tax assessed equals \$4,164,792.34 (the “**Refunded Proceeds**”). See June 12, 2025 letter to me from Dr. Connie Uribe, attached.
6. The Refunded Proceeds have already been remitted to my office, which in turn, will credit each property which bore the Tax with the amount of the Tax it was assessed and was paid.
7. The Yuma County Treasurer’s Office is currently working to issue each property that bore the Tax with credits equal to the amount of the Tax it was assessed.
8. It is anticipated that the tax credits will be issued in connection with 2025 property tax statements, to be released in October of this year.
9. I understand that this will be the first voluntary tax refund for the benefit of taxpayers in the history of Arizona.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and experience.

Executed on June 30, 2025





David Alexandre
Yuma County Treasurer

June 12, 2025

VIA Electronic Mail

David Alexandre and Sarah Perius
Yuma County Treasurer's Office
2550 S. 4th Avenue, Ste. A
Yuma, AZ 85364
sarah.perius@yumacountyaz.gov
david.alexandre@yumacountyaz.gov

Re: Transfer of funds from general operating fund to separate Fund 99839.

Dear Mr. Alexandre and Ms. Perius,

By this letter, the Hospital District No. 1 of Yuma County, Arizona (the "District") hereby requests and authorizes the Yuma County Treasurer's Office to *immediately* transfer \$724,648.81 from the District's operating Fund 99841, into the separate Fund 99839 (the "Credit Account"). Onvida Health (formerly Yuma Regional Medical Center) will be depositing \$4,164,792.34 by wire, which should also be deposited into the Credit Account.

The Credit Account shall be the Fund designated for the tax payment refund of \$4,164,792.34, which should be distributed to Yuma County property owners who own property that has been taxed as a result of secondary taxes levied for the District. The District realizes that there will be funds above and beyond the \$4,164,792.34 tax payment refund in the Credit Account, and the District will work with the County to direct any remaining funds after the tax refund occurs.

Please do not hesitate to reach out to me with any questions. If you have legal questions, you may direct them to the District's counsel, Paul Gerding with Kutak Rock, at 480.429.4843.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dr. Connie Uribe', with a long horizontal flourish extending to the right.

Dr. Connie Uribe, Chairman
Board of Directors
Hospital District No. 1 of Yuma County, Arizona

Declaration of Connie Uribe, M.D.

I, Connie Uribe, M.D., make the following Declaration in lieu of an affidavit in accordance with Arizona Rule of Civil Procedure 80(c):

1. I make this declaration based on my personal knowledge and belief.
2. I am the current Chair of the Board of Directors of Hospital District No. 1 of Yuma County (the “**Hospital District**” or “**District**”).
3. The Hospital District owns the hospital complex located at 2400 S. Avenue A in Yuma, Arizona (the “**Hospital**”). Since 1973, the Hospital District has leased the Hospital to the Yuma County Regional Medical Center, now called Onvida Health (“**Onvida**”). Onvida maintains and operates the Hospital and is the Hospital District’s tenant.
4. The Hospital District exercises no control over Onvida’s operation or maintenance of the Hospital, nor does the Hospital District receive any income from Onvida’s lease of the Hospital other than monthly rent, which until recently, consisted of Onvida’s payment to the Hospital District of the District’s monthly budgeted operating expenses.
5. For decades, Onvida complied with its rent payment obligations under its lease with the Hospital District and as a result, the Hospital District relied upon Onvida’s rent payments to cover all of the District’s operating expenses, including its attorneys’ fees.
6. In late 2019, however, following a dispute over Onvida’s compliance with the terms of its agreements with the Hospital District, Onvida sued the District and thereafter refused to pay that portion of the Hospital District’s expenses representing the attorneys’ fees the District incurred in its litigation with Onvida and others.
7. Because the Hospital District’s sole source of funding at the time of these events was the rent payable by Onvida to the Hospital District, which Onvida had refused to pay for several years, the only way the District could pay its attorneys to defend itself in the cases brought against it by Onvida and others (the “**Litigation**”) was to request that Yuma County impose a secondary property tax to fund the Hospital District’s budgeted expenses in accordance with A.R.S. § 48-1914. The tax was first levied in August of 2021, but as I understand it, the tax beginning in fiscal year 2023-2024 is the subject of Mr. Ogston’s lawsuit.
8. On July 17, 2021, the Hospital District sent the Yuma County Board of Supervisors (the “**Supervisors**”) its 2021-2022 fiscal year budget along with a cover letter informing the Supervisors that the Hospital District estimated that it required \$1,224,992.34 to be raised by taxation to “cover certain of [its] expenses for its administration and defense in particular for legal fees and public outreach costs” in connection with the Litigation. The Hospital District’s letter to the Supervisors also specified that the Tax would not be used to operate and maintain the Hospital.
9. On August 16, 2021, the Supervisors voted to impose a secondary property tax (the “**Tax**”) on all eligible real property in the Hospital District to cover the District’s attorneys’ fees and other budgeted expenses. None of the proceeds of the Tax have been remitted to Onvida or have been used by the Hospital District to support the operation and maintenance of the Hospital.

10. The Tax was levied annually from August of 2021 until July 1, 2024.

11. During the Litigation, the Hospital District informed the Yuma County Treasurer (the "**Treasurer**") that, in the event the Hospital District obtained an award (or settlement) in the Litigation in excess of that necessary to compensate the Hospital District for its actual damages, the Hospital District would pay such excess to Yuma County to enable the County to credit each property which bore the Tax with its share of such excess.

12. As a result of a settlement reached in the Litigation, the Hospital District secured an agreement with Onvida Health to fully repay all of the Tax levied. The cumulative sum of the Tax assessed equals \$4,164,792.34 (the "**Refunded Tax**"). See June 12, 2025 letter from me to the Treasurer, attached.


13. The Refunded Tax has already been remitted to the Treasurer, which in turn, will credit each property which bore the Tax with the amount of the Tax it was assessed and was paid (the "**Tax Credit**").

14. As I understand it, the Yuma County Treasurer's Office will be releasing the Refunded Tax in October of this year, at or around the same time that it issues 2025 property tax statements.

14. Once the Treasurer issues the Tax Credit, each property assessed the Tax will be made whole for its share of the Tax levied against that property.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and experience.

Executed on July 2nd 2025



Connie Uribe, M.D.
Chair, Board of Directors,
Hospital District No. 1 of Yuma County