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Scottsdale's SkySong Avoids Property Taxes Without GPLET lease

By Mark Flatten, Investigative Reporter

SkySong in Scottsdale is touted on its website as a place like no other in the world, a center where business and innovation are one and the same. The concept is to marry expertise from Arizona State University to for-profit companies that lease space in the office and retail complex.

Whether SkySong really is “a center like no other in the world” is open to debate. But when it comes to property taxes, it's pretty much true. Skysong doesn't pay any, and the way the project avoids them is a rarity in Arizona.

The property at the southeast corner of Scottsdale and McDowell roads is valued for tax purposes at more than \$82.5 million, according to Maricopa County records. Yet because it is on land owned by the city, no property taxes are charged, even though SkySong's owner is a for-profit foundation.

Normally, projects like that would be covered under the Government Property Lease Excise Tax (GPLET), passed by the legislature in 1996 to prevent cities from abusing their tax-exempt status to allow profit-making developments to escape paying property taxes.

But SkySong is like no other place.

There is no GPLET agreement on the property. Rather there is a 99-year lease, signed in 2004, between the city of Scottsdale and ASUF Scottsdale LLC, a for-profit arm of the non-profit ASU Foundation.

Skysong shows that GPLET leases are not the only mechanism that cities use to waive property-taxes for privileged business developments.

Scottsdale bought the land as part of an \$81.4 million incentive package the city approved to lure SkySong. The foundation paid to build the office buildings and retail space in partnership with Higgins Development Partners and the Plaza Companies.

Eventually, SkySong will have 1.2 million square feet of office, research and retail space. All of it will be owned by the foundation. None of it will be taxed.

Neither Scottsdale nor the ASU Foundation can seem to explain why SkySong does not pay property taxes, especially in the absence of a GPLET agreement.

“If the buildings aren’t being taxed, it’s not because we asked or recommended or agreed to not have them taxed,” said Harold Stewart, executive director of the city’s economic vitality division. “They may have fallen into one of those ambiguous parts of the law.”

The ASU Foundation also wouldn’t explain why no taxes have been assessed.

“The Maricopa County Assessor has listed the property as ‘exempt’ from real property taxes,” foundation officials said in a written statement forwarded by SkySong spokesman Tom Evans. “We suggest you check with the county assessor for a full explanation of Arizona real property tax regulations.”

County assessor Keith Russell said the answer seems to be in the way the lease is structured. When the lease expires, the buildings will be owned by the city, Russell said, admitting he’s a bit fuzzy on explaining exactly why SkySong is exempt from property taxes. If the lease calls for the buildings to be titled to the city at the end of its term, then they are considered municipal property and not subject to taxation, Russell said.

The exception seems to be rooted in a 2006 ruling in Maricopa County Superior Court involving an office center built on Salt River Project land in Tempe.

SRP is basically an improvement district, treated in the law the same as a municipality. The developers of the Papago Spectrum center at Washington Street and Priest Drive challenged their property tax assessments, claiming a now-repealed law that taxed improvements made by for-profit companies on tax-exempt land was unconstitutional. Superior Court Judge Thomas Dunevant agreed.

“Improvements in property leased to a private firm by a government entity are the property of the government lessor, and are therefore exempt from property taxation,” he concluded.

While SkySong may be one of a kind in how it escapes property taxes, it is not quite unique when it comes to taking profit-making ventures off the tax rolls without using GPLET.

Phoenix officials took out the middleman in 2006 when the city built the \$350 million Sheraton Phoenix Downtown hotel using taxpayer money. The city built and owns the hotel. Starwood Hotels and Resorts Worldwide Inc. was hired to manage it under the Sheraton name.

As a city-owned property, the Sheraton is exempt from property taxes and is not covered under a GPLET agreement. The decision to build the hotel at Third and Van Buren streets using taxpayer money was part of the city's push to build its downtown convention business, said David Krietor, deputy city manager. The Phoenix Convention Center was recently remodeled at a cost of \$600 million. The problem is there is a shortage of high-end hotel rooms needed to attract the largest conventions, Krietor said.

"The city is hugely committed to the convention center business, so this relates to that business," Krietor said of the Sheraton. "It had been unable to get the private sector to do it for a variety of reasons. The city made the business decision that to protect its interest in the convention center industry it needed to build a hotel."