

Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.

UNITED STATES TAX COURT
WASHINGTON, DC 20217

LITTLE HORSE CREEK PROPERTY, LLC,)
LITTLE HORSE CREEK, LLC, TAX)
MATTERS PARTNER,)
)
Petitioner(s),) **BD**
)
v.) Docket No. 7421-19.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent)

ORDER

This case involves a charitable contribution deduction claimed by Little Horse Creek Property, LLC (Little Horse), for a conservation easement. The case is not currently calendared for trial.

On March 5, 2020, respondent filed a Motion for Partial Summary Judgment, urging alternative grounds for denying the claimed deduction. Respondent contends (among other things) that the easement fails to protect the conservation purpose in perpetuity because the easement deed includes an allegedly impermissible “donor improvements” clause. See PBBM-Rose Hill, Ltd. v. Commissioner, 900 F.3d 193, 208 (5th Cir. 2018); Coal Property Holdings, LLC v. Commissioner, 153 T.C. __, __ (slip op. at 22) (Oct. 28, 2019). The deed provides that the portion of the proceeds due the charitable grantee in the event of judicial extinguishment of the easement would be reduced by the “increase in value after the date of * * * [the easement] attributable to improvements.” Petitioner filed a timely response objecting to the granting of the motion.

On March 11, 2020, respondent filed a Motion to Stay Proceedings asking that discovery and other pre-trial proceedings in this case be stayed pending the Court’s disposition of respondent’s Motion for Partial Summary Judgment. On March 20, 2020, petitioner filed a First Request for Admissions with a response date of April 22, 2020. On April 6, 2020, petitioner filed a Second Request for Admissions with a response date of May 8, 2020. Both sets of requests appear to

be directed primarily to matters that petitioner believes relevant to proper disposition of the donor improvements issue.

On April 13, 2020, petitioner filed a timely response objecting to respondent's Motion to Stay Proceedings. Petitioner contends that responses to its First and Second Requests for Admissions will support its defense against respondent's Motion for Partial Summary Judgment and will support a potential cross-motion for summary judgment on one or more issues.

In considering the donor improvements issue, it would seem desirable to have all relevant material before the Court at the same time, to enable the Court to determine (among other things) whether there exist any genuine disputes of material fact. Accordingly, we will deny respondent's Motion to Stay Proceedings insofar as respondent seeks to be relieved of the duty to respond to petitioner's First and Second Requests for Admissions, previously filed. We will grant respondent's Motion to Stay Proceedings insofar as he seeks to defer other forms of discovery until after the Court has disposed of respondent's Motion for Partial Summary Judgment and any cross-motion that petitioner may file on the donor improvements issue.

In consideration of the foregoing, it is

ORDERED that the time by which respondent shall respond to petitioner's First and Second Requests for Admission is extended to May 22, 2020. It is further

ORDERED that respondent's Motion to Stay Proceedings, filed March 11, 2020, is granted, except as set forth in the preceding paragraph. It is further

ORDERED that, if petitioner wishes to file a cross-motion for summary judgment directed to the donor improvements issue, it shall file such motion on or before June 26, 2020.

(Signed) Albert G. Lauber
Judge

Dated: Washington, D.C.
April 17, 2020