

NOTICE OF CLAIM THAT FAILS TO CORRECTLY IDENTIFY OWNER OF SUBJECT REAL PROPERTY DOES NOT SATISFY CLAIM STATUTE

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Turner v. City of Flagstaff
Ct. Appeals, Div. One, February 22, 2011

Written by the [JSH Appellate Team](#)

The Arizona Private Property Rights Protection Act provides a cause of action for the “owner” of real property if a land-use law reduces the value of the property. See A.R.S. § 12-1134(A). Before a property owner can file suit pursuant to A.R.S. § 12-1134, however, he must satisfy the notice provisions of both § 12-1134 and § 12-821.01. The property here was owned by an LLC, of which Turner was president and sole shareholder. But his notice of claim stated that he was the owner of the property, and that the City’s ordinance had deprived him of property rights that entitled him to just compensation. The City moved to dismiss the complaint on the ground that the true “owner” of the subject property, an LLC, failed to file a notice of claim. The trial court granted the motion and the court of appeals affirmed, reasoning that the statutory language is clear – “owner” for purposes of the statutory notice provisions means the property’s true owner. Substantial compliance does not excuse compliance with notice of claim requirements.

The court vacated and remanded the case to allow the court to consider Turner’s request for leave to amend the notice of claim.