

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

AIR CHINA LIMITED,
Plaintiff and Appellant,

v.

SAN MATEO COUNTY,
Defendant and Respondent.

A120971

(San Mateo County
Super. Ct. No. 460878)

THE COURT:

The petition for rehearing filed by appellant on June 4, 2009, is denied.

The opinion filed herein on May 20, 2009, is ordered modified on page 4 to delete the second full paragraph, beginning “Here, as a threshold matter . . .” and footnote 2, and to substitute the following: “Here, the question of whether the County’s tax on Air China’s possessory interests in landing rights and leasehold improvements at the Airport meets the statutory requirements of section 107 was not disputed in the trial court and is not before us. Air China, however, suggests in its reply brief that the County is prohibited from imposing any property taxes because it does not own any property at the Airport and its use of the terminal space, taxiways, and runways is not exclusive. While it does not make this argument in the context of the exclusivity requirement of section 107, it is well settled that shared use of property with others affects only the valuation of the possessory interest and does not defeat the exclusivity requirement of section 107. (*Korean Air Lines Co.*, *supra*, 162 Cal.App.4th at p. 569.)”

There is no change in the judgment.