

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2000-017517

03/04/2003

HON. PAUL A KATZ

CLERK OF THE COURT
B. Navarro
Deputy

FILED: 03/11/2003

MARICOPA COUNTY

RICHARD W GARNETT

v.

CITY OF PHOENIX, et al.

CHARLES K AYERS

UNDER ADVISEMENT RULING

The Court having taken the Plaintiff's motion for partial summary judgment under advisement; having reviewed the memoranda of the parties and legal authorities cited therein; and good cause appearing,

IT IS ORDERED granting Plaintiff's motion for partial summary judgment as to applicability of the substitute facilities doctrine and denying Plaintiff's motion for partial summary judgment as to compensation for the street and alley right-of-way adjacent to the parcel.

The Court finds that just compensation for the property should be determined in accordance with its market value without regard to the cost of a substitute facility. The substitute facilities doctrine is proper when determination of market value is too difficult or when it would be manifestly unjust to use market value. *See e.g., United States v. 50 Acres of Land*, 469 U.S. 24 (1984). Defendants have offered no competent admissible evidence showing that use of standard appraisal methods is inappropriate or that such standard techniques would result in manifest injustice to the Defendants. However, by limiting this case to the standard techniques this Court does not intend to preclude the parties' experts from discussing the uniqueness of this property. The Court would note that while there may not be another available parcel within the immediate corridor, available properties either north or south of the existing corridor would likely be of less value than a parcel within the "Jefferson" corridor.

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The Court further finds that the street and alley right-of-way must be included in the total acreage of the property and the City is to be compensated for the total acreage taken. This is not a typical case where the street and alley will have to be replaced. The street and alley will become part of a contiguous parcel and should be valued at the same per acre price as the remainder of the parcel.