

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-027000

08/18/2011

HON. ROBERT H. OBERBILLIG

CLERK OF THE COURT
R. Aguilera
Deputy

CAY PARTNERS L L C

JAMES M MAROVICH

v.

BALMORAL INVESTMENTS GROUP I, L L C, FRANKLIN D DODGE
et al.

RICHARD C COLE JR.
MARK B PYPER

TRIAL MINUTE ENTRY
DAY 1

Courtroom-OCH 309.

Prior to commencement of trial, Plaintiff's exhibits 1 through 17 and Defendant's exhibits 18 through 36 inclusive are marked for identification.

9:09 a.m. This is the time set for Trial to the Court. Plaintiff is represented by counsel, James M. Marovich. Defendants Balmoral Investments Group I, LLC, William Dominick, who is present, and Cindie Dominick are represented by counsel, Franklin D. Dodge.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

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The Court notes that it has also received the following three (3) motions, all electronically filed August 12, 2011:

- *Defendants' Motion to Dismiss for Failure to State a Claim;*
- *Defendants' Motion to Strike and/or Exclude Plaintiff's Expert Rebuttal Testimony to Defendants' Expert Appraisal Reports and any Documentary Evidence and Related Testimony not Disclosed; and*
- *Defendants' Motion for Order Shortening Time and for Accelerated Hearing.*

Today's trial having been set to address only the narrow issue of Fair Market Value,

IT IS ORDERED as follows:

- Defendants' Motion to Dismiss is **denied**;
- Defendants' Motion to Strike and/or Exclude is **denied**; and
- Defendants' Motion for Order Shortening Time and for Accelerated Hearing is **denied**.

Thomas R. Peck is sworn and testifies.

Plaintiff's exhibits 1 through 17 are received in evidence.

10:25 a.m. The court stands at recess.

10:34 a.m. Court reconvenes with the parties and respective counsel present.

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Thomas R. Peck, having resumed the stand, testifies further.

Defendants' exhibits 19, 20, 21, and 22 are received in evidence.

Defendants' exhibit 18 is received in evidence.

12:05 p.m. The court stands at recess.

1:20 p.m. Court reconvenes with the parties and respective counsel present.

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Stephen Seefeld is sworn and testifies.

Troy D. Glover is sworn and testifies.

2:33 p.m. The court stands at recess.

2:41 p.m. Court reconvenes with the parties and respective counsel present.

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Troy D. Glover, having resumed the stand, testifies further.

Defendants' exhibits 24, 25, 26, and 27 are received in evidence.

Defendants' exhibits 23, 28, and 29 are received in evidence.

Timothy Gay is sworn and testifies.

Closing arguments are presented.

IT IS ORDERED taking this matter under advisement.

Discussion is held regarding the Counterclaim in this matter.

IT IS FURTHER ORDERED setting this matter for Pretrial Status/Scheduling Conference on **September 27, 2011 at 8:45 a.m.**, to discuss the further handling of this case. Conference is set before:

JUDGE ROBERT H. OBERBILLIG
OLD COURT HOUSE
125 WEST WASHINGTON STREET
THIRD FLOOR – COURTROOM 309
PHOENIX, AZ 85003
(602) 506-2194

NOTE: This Court utilizes FTR for an electronic record of the proceedings. However, any party may request the presence of a court reporter by contacting this division three (3) court business days before the scheduled hearing.

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IT IS ORDERED permanently releasing exhibits 31, 32, 33, 34, and 35 to counsel for Defendants.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form.

4:42 p.m. Trial concludes.

ALERT: eFiling through AZTurboCourt.gov is mandatory in civil cases for attorney-filed documents effective May 1, 2011. See Arizona Supreme Court Administrative Orders 2010-117 and 2011-010. The Court may impose sanctions against counsel to ensure compliance with this requirement after May 1, 2011.