

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-001025

12/12/2007

HON. PAUL A KATZ

CLERK OF THE COURT
W. Bobrowski
Deputy

CITY OF SCOTTSDALE

CHARLES K AYERS

v.

EDMUNDS-TOLL CONSTRUCTION
COMPANY, et al.

DALE S ZEITLIN

JEFFREY D GROSS
ROBERT BRUCE WASHBURN

RULING

The Court having reviewed Defendant Toll Brother's Motion for Date of Valuation, which has not yet been responded to on its merits; having reviewed the City's Motion to Strike and for Sanctions and the memoranda of the parties filed incident thereto; and good cause appearing,

IT IS ORDERED denying Defendant Toll Brother's Motion for Date of Valuation without further response and without oral argument. The Court in denying said Motion finds that it is untimely, is contrary to the stipulation of the parties contained in their Joint Pretrial Statement which establishes January 16, 2004, as the valuation date of the subject property consistent with their memorandum of Understanding dated February 23, 2004 and the numerous Rule 26.1, A.R.Civ.P. disclosures which have been made throughout the near four years of this litigation and the agreed upon valuation date is wholly consistent with A.R.S. §12-1123(A), the constitutionality of which has been repeatedly affirmed by the Arizona Supreme Court and Court of Appeals. *See, e.g., Desert Waters, Inc. v. Superior Court*, 91 Ariz. 163 (1962).

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IT IS FURTHER ORDERED denying Toll Brother's October 30, 2007 Motion in Limine Re The Subject Properties 2002 Purchase Price without response or oral argument, the Court finding that Toll's 2002 purchase of the subject property, the price paid and the unusual circumstances of the sale are all relevant to the appraisal opinions rendered in this case and appropriate for the jury's consideration.

IT IS FURTHER ORDERED denying that portion of the City's Motion to Strike as moot.

IT IS FURTHER ORDERED that no sanctions will be imposed against Toll as requested by the City.