

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-027384

09/16/2010

HON. GARY E. DONAHOE

CLERK OF THE COURT
S. Yoder
Deputy

MIDFIRST BANK

BENJAMIN REEVES

v.

UNION 91 L L C, et al.

PETER JON MOOLENAAR

DAVID A DAMORE

**EVIDENTIARY HEARING
DAY ONE**

Courtroom ECB 511

Plaintiff's Exhibits 1 – 53 and Defendants' Exhibits 54 – 85 are marked for identification prior to the hearing.

FILED: Deposition of Katherine N. Portanova dated April 20, 2010.

9:30 a.m. This is the time set for Evidentiary Hearing re Fair Market Value. Counsels Christopher Bayley and Benjamin Reeves appear on behalf of Plaintiff MidFirst Bank; Seth Davis, a MidFirst Bank representative, is present. Counsel Peter J. Moolenaar appears on behalf of Defendants Union 91, LLC, Olive 95, LLC, and Brown Recker, LLC; Brandon Hudson, manager of the properties, is present. Defendant Katherine Portanova is present with counsel, David A. Damore.

Court Reporter Marmie Guimont is present.

A record of the proceedings is also made by audio and/or videotape.

Opening statements are presented.

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Argument is heard on Defendants' motion to invoke the rule of exclusion as to Plaintiff's appraisal experts.

For the reasons stated on the record,

IT IS HEREBY ORDERED denying the motion to invoke the rule of exclusion.

Defendants' case:

William Michael Dominick is sworn and testifies.

Defendants' Exhibits 59, 60 and 61 are received in evidence.

Defendants' Exhibit 81 is received in evidence.

Defendants' 54 is received in evidence.

Defendants' 56 is received in evidence.

10:47 a.m. Court stands at recess.

11:04 a.m. Court reconvenes with the parties and respective counsel present.

Court Reporter Marmie Guimont is present.

A record of the proceedings is also made by audio and/or videotape.

William Michael Dominick resumes the stand and testifies further.

Defendants' Exhibit 55 is received in evidence.

12:03 p.m. Court stands at recess.

1:30 p.m. Court reconvenes with the parties and respective counsel present.

Court Reporter Marmie Guimont is present.

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William Michael Dominick resumes the stand and testifies further.

Defendants rest.

Plaintiff's case:

Defendants object to witness Albert Nava. Argument is presented.

IT IS HEREBY ORDERED denying Defendants' motion to preclude the witness without prejudice to their right to object on disclosure grounds.

Albert Nava is sworn and testifies.

3:29 p.m. The court stands at recess.

3:49 p.m. Court reconvenes with the parties and respective counsel present.

Court Reporter Marmie Guimont is present.

A record of the proceedings is also made by audio and/or videotape.

Legal and procedural issues are discussed.

In order to give Defendants time to prepare for Mr. Farley and Mr. Nava's testimony,

IT IS HEREBY ORDERED continuing this Evidentiary Hearing to **October 14, 2010 from 10:00 a.m. to 5:00 p.m.** in this division.

IT IS FURTHER ORDERED that in the event defense counsel wish to depose Mr. Farley or Mr. Nava that they be made reasonably available at a time selected by defense counsel.

Defendants having withdrawn their Motion for Summary Judgment,

IT IS FURTHER ORDERED vacating oral argument set on the Motion for Summary Judgment for September 28, 2010.

4:19 p.m. Court stands at recess until October 14, 2010 at 10:00 a.m.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>