

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-029136

04/04/2011

JUDGE PRO TEM COLLEEN L. FRENCH

CLERK OF THE COURT
T. Nosker
Deputy

WELLS FARGO BANK N A

SCOTT W HULBERT

v.

FORTIS PROPERTIES L L C, et al.

STERLING R PETERSON

SCOTT B COHEN

RULING MINUTE ENTRY

This Court conducted an evidentiary hearing on the issue of “fair market value”, pursuant to A.R.S. §33-814 on April 1, 2011. The Court has considered the evidence presented at that hearing, arguments of counsel, and all relevant statutes and rules. Based on the foregoing, the Court finds as follows.

The subject property was the subject of a lease, which, although the tenant was technically in default, the landlord had not, at the time of the trustees’ sale, issued a default notice, or taken any other efforts to evict the tenant. The fact that the landlord could have taken steps to evict the tenant does not demonstrate that there was not a valid lease in place, or that the long-term lease had become a month-to-month lease. For these reasons, the Plaintiff rightfully used the “leased fee value,” rather than the “fee simple value” of the property in formulating its credit bid in this case. Further, the Court finds that the Defendants’ claims that Plaintiff’s appraisal of the property was flawed in its theories and assumptions to be without merit. Therefore,

IT IS ORDERED that the leased fee value of \$1,268,000 constitute the fair market value of the property for purposes of A.R.S. §33-814.