

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-005362

05/25/2011

HON. EDWARD O. BURKE

CLERK OF THE COURT
L. Nixon
Deputy

GUARANTY BANK AND TRUST COMPANY WILLIAM SCOTT JENKINS JR.

v.

RANCHO TUSCANA L L C, et al.

FRANK L MURRAY

THOMAS E LORDAN

MINUTE ENTRY

The court has had the issues raised in the evidentiary hearing on defendants' Application For Fair Market Value Determination Pursuant to A.R.S. § 33-814(A) under advisement and makes the following ruling.

The court finds that the fair market value of the properties described in plaintiff's complaint as the "Navajo Property" and the "Maricopa Property on June 2, 2010 was \$12,954.00.

Analysis

The court finds that the fair market value of the Navajo Property was, by virtue of defendants' lack of challenge to plaintiff's credit bid \$2,160,000 and the fair market value of the Maricopa Property was \$10,794,000.

Plaintiff's appraiser, Michael Turner opined that the value of the Maricopa Property was \$4,100,000 (Exhibit 1). Defendants' appraiser, Donald C. Duncan opined that the value of the Maricopa Property was \$10,794,000.

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The court found the Duncan appraisal more convincing for many reasons, including the following:

1. Turner's use of the Korpacz Real Estate Investment Survey was neither persuasive nor appropriate. The court notes that Turner did not use the Korpacz Real Estate Investment Survey in his September 13, 2006 appraisal of the Maricopa Property.
2. The comparable dwelling units used by Turner were of far less quality than the subject luxury dwelling units as shown by the photos in exhibit 29. This may be because Turner was inexplicably not allowed to inspect the interiors of the dwelling units even though he asked the plaintiff for access. Turner acknowledged on cross-examination that if the subject dwelling units' interiors were extraordinary, he would have to adjust his appraisal upward;
3. Turner did not adequately explain his use of Desert Mountain comparisons in his 2006 appraisal (exhibit 21, pp. 85-88) but not in his current appraisal;
4. Turner did not adequately explain the reasons for his current lower opinion of value when compared to his \$9,740,000 appraisal of the Maricopa Property on September 13, 2006 (exhibit 21);
5. The inclusion of the 9% Developer's Profit in the built up discount rate was not was not appropriate and was not used in his September 13, 2006 appraisal (exhibit 21);
6. The \$906,830.96 prepaid building permit and impact fees were not included in either appraisal;
7. Turner's use of a per square foot value for the dwelling units was not as good as the use of comparable sales; and
8. Turner did not appropriately adjust for the cost/value of the golf memberships in the comparable sales he used.

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.