

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-001654

04/19/2005

HONORABLE PETER C. REINSTEIN

CLERK OF THE COURT
M. Sahli
Deputy

FILED: 04/22/2005

TEMPE CITY

C BRAD WOODFORD

v.

DAY & SAM INC, et al.

LEONARD M BELL

MINUTE ENTRY

The Court has reviewed Plaintiff's Application for Immediate Possession, Defendants' Response and Motion to Dismiss, Plaintiff's Response to the Motion to Dismiss, and Defendants' Reply. The Court has also heard arguments by counsel. Based upon the Court's consideration of the above, the Court makes the following findings and ruling.

The Plaintiff, City of Tempe, submitted an appraisal to Defendants pursuant to a proposed taking of frontage and signage of the motel owned by Defendants. The Defendants contend that the offer presented by the City is contrary to the requirements of A.R.S. § 12-1116 (A) in that it failed to support the amount of the proposed compensation. Defendants argue that Mr. Sells, the City's appraiser used a "short cut" method that did not take into account whether there had been any severance damages. Consequently, the Defendants claim that this Court has no jurisdiction over this matter because of the inadequate appraisal.

The Court finds that the question as to whether the City's appraiser utilized the wrong method in evaluating the Defendants' property is a question for the trier of fact. Further, it is clear from a reading of Phoenix v. Wilson, 200 Ariz. 2 (2001), that there are various methods of valuing property depending on the circumstances of a particular case. Here, the City's appraiser, who is duly certified, used a method that he believed was appropriate to the circumstances. The fact that the Defendants believe otherwise does not strip the Court of jurisdiction under Rule 12 (b) 1 and 2, Ariz. R. Civ. Proc. Accordingly,

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IT IS ORDERED denying Defendant's Motion to Dismiss.

IT IS FURTHER ORDERED granting the Application for Immediate Possession.
Plaintiff shall post a bond in the amount of \$75,000 in accordance with § 12-1116.