

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-000530

04/28/2008

HON. EDWARD O. BURKE

CLERK OF THE COURT
L. Nixon
Deputy

PHOENIX CITY

LINDA J LATZ

v.

SHERRY A HARNISH, et al.

JAMES T BRASELTON

WILLIAM D RISKE

MINUTE ENTRY

The court has received an April 23, 2008, letter from attorney, Melinda A. Bird, pointing out that the court's April 18, 2008, ruling on the City's Application for Withdrawal of Funds on Deposit and Exoneration of Bond was issued prematurely because the City had not had an opportunity to reply to the Defendant's Response to the Application. Ms. Bird is correct and the court has now considered her Reply and makes the following ruling.

The mandate was issued in this case on November 30, 2007. Defendant has taken no steps since that date to obtain any costs, disbursements, expenses, attorneys' engineering or appraisal fees under A.R.S. § 12-1129(B). Defendant's attorneys' fees on appeal totaled just over \$60,000.00. The trial appears to have lasted 3-4 days and the court doubts that defendant's attorneys' fees exceeded \$275,000.00 by very much. Accordingly,

The City's Application for Withdrawal of Funds on Deposit and Exoneration of Bond is GRANTED as to the warrant/cash deposit of \$622,213.22 posted with the Clerk of this Court and is DENIED at this time as to the cash or surety bond in the sum of \$275,000.00 posted by the City with the Clerk pursuant to the Order for Immediate Possession in this case. Those parts of the court's April 18, 2008, minute entry that are inconsistent with this minute entry are VACATED.

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It is further ORDERED that if Defendant has not filed an application for her expenses and attorneys' fees by 5:00 p.m. on May 28, 2008, the court will, upon submission of a new order by the City, release the \$275,000.00 cash or surety bond remaining on deposit with the Clerk.

The court has modified, signed and filed the Corrected Order submitted by the City on April 29, 2008.