

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

*** FILED ***
02/05/2002

02/04/2002

CLERK OF THE COURT
FORM V000A

HON. MARGARET H. DOWNIE

A. Sandoval
Deputy

CV 2000-013727

FILED: _____

KATHY WLEZNIAK

THOMAS B DIXON

v.

TRAVELERS PROPERTY CASUALTY, et
al.

GORDON E DUDLEY

ROBERT R BERK

MINUTE ENTRY

9:56 a.m. This is the time set for oral argument on Defendants' Motion for Partial Summary Judgment Regarding Measure of Property Damage. All above-named counsel are present.

Court reporter: Linda Lopez

Argument is present to the Court.

IT IS ORDERED taking this matter under advisement.

IT IS FURTHER ORDERED setting oral argument on Defendant Travelers' Motion for Summary Judgment (yet to be filed) for **April 1, 2002 at 3:00 p.m.** in this division.

10:22 a.m. Hearing concludes.

LATER:

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The facts of this case fall under the "general rule" that a Plaintiff is limited to the lesser of: (1) the cost of repair/remediation and (2) the diminution in value due to the loss. See, e.g., *City of Globe v. Rabogliatti*, 24 Ariz. 392, 210 P. 685 (1922); *Blanton and Co. v. Transamerica Title Insurance Co.*, 24 Ariz. App. 185, 136 P.2d 1077 (App. 1975). Although *Dixon v. City of Phoenix*, 170 Ariz. 612, 845 P.2d 1107 (App. 1992), carved out a limited exception to the general rule, the record does not support its application to the case at bar.

IT IS ORDERED granting Defendants' Motion for Partial Summary Judgment Regarding Measure of Property Damage.