

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2009-013201

03/07/2011

HONORABLE L. GRANT

CLERK OF THE COURT  
T. Soto  
Deputy

FIRST ARIZONA SAVINGS

GREGORY P GILLIS

v.

AMERICAN FEDERAL INDUSTRIES, et al.

AMERICAN FEDERAL INDUSTRIES  
NO ADDRESS ON RECORD

CAROLYN DAHLGREN  
NO ADDRESS ON RECORD  
DONALD J NEWMAN

RULING

The first witness to testify at this Fair Market Valuation Evidentiary Hearing was Mr. Robert Oglesby the appraiser retained by the Plaintiff. Mr. Oglesby has been a professional real estate appraiser for approximately 8 years. Initially, Mr. Oglesby testified that he visited the subject property in January of 2009, at that time there was no structure on the property. There was a second appraisal of the property on April 17, 2009. Mr. Oglesby indicated that he used the fair market approach to value the property and viewed eight (8) other properties to reach his appraisal valuation of the property. According to Mr. Oglesby, he valued subject property at approximately \$60,000.00 on April 17, 2009. Mr. Oglesby went on to explain that he conducted his valuation of the property during a downward decline in the real estate market in Phoenix metropolitan area.

Mr. Dwayne Dahlgren, the Defendant, was the next witness to testify at the Evidentiary Hearing. Mr. Dahlgren has been a real estate developer for approximately 25 years. Mr. Dahlgren went on to testify that as a real estate developer he's been involved in the development and sale of more than 500 homes during his 25 year career. Next, Mr. Dahlgren testified about

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how developed this property was and was critical of Mr. Oglesby's appraisal of the property. After that, Mr. Delaney testified that it was his considered opinion that the real estate market at the time value loss this particular property was flat and was not declining. He went on to explain that he believed that the value of the property was approximately \$140,000.00 prior to the trustee sale.

The Court finds that Mr. Dahlgren can't present credible evidence concerning what he believed that to be the value of his property prior to the trustee sale.

The Court finds that both witnesses who testified at the Evidentiary Hearing are credible witnesses who can provide the Court with clear credible evidence concerning the value real estate. However, the Court finds that Mr. Dahlgren, given his 25 years experience in the real estate development business is a more credible witness concerning the value of his prior property.

After considering the testimony of the witnesses involved in this case, the Court finds that the Defendant has sustained his burden of persuasion concerning the fair market value of the property at issue in this case.

**IT IS ORDERED** that the fair market value of property at issue in this case is approximately \$140,000.00, at the date and time of the sale of this property.

**IT IS FURTHER ORDERED** that judgment shall be entered accordingly.

**IT IS FURTHER ORDERED** that the Defendants shall submit an appropriate Order to the Court within 30 days from the date of entry of this order.