

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-004176

10/25/2010

HON. GARY E. DONAHOE

CLERK OF THE COURT
S. Yoder
Deputy

RIVERWALK OLIVE LOAN L L C

ANDRE H MERRETT

v.

RIVERWALK-OLIVE AVENUE L L C, et al.

KENT S BERK

LAT J CELMINS
MICHAEL D CURRAN

**EVIDENTIARY HEARING
MATTER UNDER ADVISEMENT**

Courtroom ECB 511

9:47 a.m. This is the time set for Evidentiary Hearing re: Fair Market Value. Counsel Andre H. Merrett appears on behalf of Plaintiff Riverwalk Olive Loan, LLC. Counsel Kent S. Berk appears on behalf of all Defendants except Roberts and the Neils. Counsel Lat J. Celmins appears on behalf of Defendant James K. Roberts. Counsel Michael D. Curran appears on behalf of Defendants Robert and Janet Neil. The following Defendants are present: Daniel Ellis, Donald Ellis, Patricia Ellis, Steven Pratico, Dale Russell, and James K. Roberts.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Opening statements are presented by Mr. Berk and Mr. Celmins.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-004176

10/25/2010

Plaintiff's case:

John Loper is sworn and testifies.

Pursuant to stipulation, Plaintiff's Exhibits 1 and 3 through 8 are received in evidence.

Plaintiff's Exhibit 2 is received in evidence.

11:00 a.m. Court stands at recess.

11:16 a.m. Court reconvenes with the parties and respective counsel present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Warren Roy Tolson is sworn and testifies.

12:07 p.m. Court stands at recess.

1:31 p.m. Court reconvenes with the parties and respective counsel present, except for Defendant Dale Russell.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Warren Roy Tolson resumes the stand and testifies further.

Plaintiff rests.

Defendants move for judgment as a matter of law. Argument is presented.

For the reasons stated on the record,

IT IS HEREBY ORDERED denying Defendants' motion for judgment as a matter of law.

Defendants' case:

Warren Roy Tolson resumes the stand and testifies further.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-004176

10/25/2010

Plaintiff's counsel moves to preclude Exhibit 8. Argument is presented.

IT IS HEREBY ORDERED denying the motion to preclude Exhibit 8.

Defendants rest.

Closing arguments are presented.

IT IS HEREBY ORDERED taking this matter under advisement.

3:04 p.m. Matter concludes.

Later

To clarify, the Court having sustained Defendants' objection that the information contained in Hamilton's appraisal (Exhibit 2) is not relevant because there was no disclosure of facts or opinions to relate the appraisal date and value to the date of the trustee's sale, Exhibit 2 is withdrawn from evidence.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>