

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-010126

09/11/2008

HONORABLE JOSEPH B. HEILMAN

CLERK OF THE COURT
L. Muhammad
Deputy

TEMPE CITY

CHARLES I KELHOFFER

v.

TINA L SINGER, et al.

JAY DUSHOFF

JAMES F MURPHY
STEVEN B PALMER
BEN C PEARSON

EVIDENTIARY HEARING

Courtroom ECB-814

Exhibits are marked for identification:

- Plaintiff's 1 and 2.
- Defendant's 3 through 7.

10:23 a.m. This is the time set for Evidentiary Hearing re Defendant's Motion for New Date of Valuation.

Plaintiff City of Tempe is represented by counsel Charles I. Kelhoffer. Defendant Tina L. Singer is represented by counsel Jay Dushoff.

Court Reporter: Lisa Bradley.

Court and counsel discuss the status of the case.

Arguments having been presented and for the reasons set forth on the record,

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IT IS ORDERED denying Defendant's Motion to Invoke the Rule of Exclusion of Witnesses and allowing the experts to remain in the courtroom.

Opening statements.

Defendant's Case:

Jan Alan Sell is sworn and testifies.

As was previously disclosed before this date, the Court discloses his prior professional relationship with Attorney Dushoff; counsel for the Plaintiff has no objection to this case remaining on this Court's calendar.

Jan Alan Sell continues to testify.

Defendant's exhibit 7 is received in evidence without objection.

Defendant's exhibit 4 is received in evidence over objection, subject to entire appraisal coming in at a later time.

Defendant's exhibit 8, purported to be individual sheets from 11 different appraisals, is virtually marked for identification and received in evidence, subject to Plaintiff's review, and will be attached to the Court's bar-coded tag at a later time.

Defendant's exhibit 9 is marked for identification.

Defendant's exhibit 10 is marked for identification.

Defendant's exhibit 9 is received in evidence over objection.

11:49 a.m. Court stands at recess.

Plaintiff's exhibit 11 is marked for identification.

1:43 p.m. Court reconvenes with respective counsel and parties present.

Court Reporter: Lisa Bradley.

Jan Alan Sell resumes the stand and testifies further.

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Defendant's exhibit 12 is marked for identification.

Defendant's exhibit 13 is marked for identification.

Plaintiff's exhibit 1 is received in evidence without objection.

Plaintiff's exhibit 2 is received in evidence without objection.

3:20 p.m. Court stands at recess.

Defendant's exhibits 14, 15, and 16 are marked for identification.

Defendant's exhibit 8 is attached to the Court's bar-coded tag in evidence.

3:40 p.m. Court reconvenes with respective counsel and parties present.

Court Reporter: Lisa Bradley.

Jan Alan Sell resumes the stand and testifies further.

Defendant rests.

Plaintiff's Case:

John L. Loper is sworn and testifies.

Plaintiff rests. Both sides rest.

IT IS ORDERED granting Defendant's Motion for New Date of Valuation, which shall be completed on or before **November 11, 2008**.

Pursuant to stipulation and agreement of counsel,

IT IS ORDERED counsel shall meet, confer, and complete a new Scheduling Order on or before **September 19, 2008**.

IT IS ORDERED vacating the 4-day Trial to a Jury set on September 25, 2008 at 9:30 a.m. in this division, the same to be reset by separate minute entry.

Let the record reflect the Court has custody of the previously marked Trial Exhibits.

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4:46 p.m. Hearing concludes.

EVIDENTIARY HEARING EXHIBITS RELEASED

IT IS ORDERED that the clerk permanently release the following exhibits used in this proceeding to the counsel/party causing them to be marked, or to their written designee. Counsel/party shall have the right to refile relevant exhibits as needed in support of any appeal. Refiled exhibits must be accompanied by a Notice of Refiling Exhibits and presented to the Exhibits Room of the Clerk's Office. The Court's exhibit tag must remain intact on all refiled exhibits.

Plaintiff's: 11.

Defendant's: 3, 5, 6, 10, 12, 13, 14, 15, 16.

Let the record reflect counsel take immediate possession of the above released exhibits.

ISSUED: Exhibit Release Forms (2).

FILED: Hearing Worksheet.

FILED: ETS Exhibit Worksheet.

**HONORABLE JOSEPH B. HEILMAN
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 WEST JEFFERSON
8th FLOOR, COURTROOM 814
PHOENIX, AZ 85003
602-506-0292 TEL**