

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-015234

08/27/2010

HONORABLE L. GRANT

CLERK OF THE COURT
T. Soto
Deputy

NATIONAL BANK OF ARIZONA N A

JASON P SHERMAN

v.

GARY CABALLES, et al.

GARY CABALLES
NO ADDRESS ON RECORD

JAMES R CRANE
NO ADDRESS ON RECORD
ERIC STRAIT
2604 E GEMINI ST
GILBERT AZ 85234

MINUTE ENTRY

The first witness to testify at this proceeding was Daniel D. Smith, he testified as an expert witness for the Plaintiffs, the National Bank of Arizona. Mr. Smith is a duly qualified appraiser of property.

As Mr. Smith testified Exhibit 4 was submitted and received in evidence. This exhibit consists of an appraisal made by Mr. Smith concerning the subject property on East Rocky Drive, E 1/2 NW NW SW OF SEC 27-4S-2E 5.00 ACRES, Assessor's Parcel # 510-74-007. This exhibit included six comparable properties to the subject property; the effective date of this appraisal is February 17, 2009. Mr. Smith went on to testify that he valued the property at \$45,000.

After that, the Defendant, Eric Strait, representing himself questioned Mr. Smith. Mr. Strait's questions concerned the difference between the appraisal value as testified to by Mr.

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Smith as compared to the Pinal County tax value of property and why there was a difference between the tax value and the appraised value of the property.

After the Plaintiff concluded its presentation of evidence to the Court, Mr. Strait presented his evidence to the Court by way of offering into evidence Exhibit 5, Exhibit 1, and Exhibit 2.

Exhibit 5 is an appraisal prepared by Mr. Smith that is dated July 29, 2008 with an appraised value of the subject property at \$100,000.00.

Exhibit 1 is a Pinal County tax valuation of the subject property for taxable year 2008. This exhibit values the property, for tax purposes, at \$165,000.00.

Exhibit 2 is a Pinal County tax valuation of the subject property for taxable year 2009. This exhibit values the property, for tax purposes, at \$145,000.00.

After that, Mr. Strait offered evidence to the Court that were affidavits from persons that were not shared with counsel for the Plaintiffs. The Court rejected that evidence.

Next, Ms. Smith returned to the stand to testify about how and why property valuations fluctuate and the market conditions that lead to the fluctuation of those values.

After that, the parties submitted their closing arguments of comments to the Court.

Based upon the evidence as submitted to the Court by the parties in their respective closing arguments, the Court finds that the testimony presented by Mr. Smith is more credible concerning the fair market value of the property, given the fluctuations of the current real estate market because the cash value of the properties which is determined once a year does not take into consideration or capture the fluctuations in the real estate market.

The Court finds that the fair market value of the subject property is \$45,000.00.

The Court further finds that the Defendant is entitled to a credit of \$80,000.00 as that was the credit bid on the subject property.

IT IS ORDERED that the fair market value of the subject property on East Rocky Drive, E 1/2 NW SW OF SEC 27-4S-2E 5.00 ACRES, Assessor's Parcel # 510-74-007 is \$45,000.00.

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