

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF)
)
ALFRED and DONNA MAE DEANS,) CASE NO. BK87-659
)
DEBTORS) CH. 12

MEMORANDUM OPINION

Before a United States Bankruptcy Judge for the District of
Nebraska regarding Valuation.

APPEARANCES

Andrew Reid, Attorney for Debtor, HC 7, Box 33B, Chadron, NE 69337

Patrick M. Connealy, Attorney for Bank, P.O. Box 1070, Chadron, NE
69337-1070

Richard Lydick, Trustee, P.O. Box 1535 DTS, Omaha, NE 68101-1535

IT IS ORDERED:

The Court has had the benefit of listening to several hours of appraiser live testimony; reading three appraisals; reading depositions of appraisers; reading written final arguments which were limited to five pages each by order of the Court. Neither party has any confidence in the opinion of the other's appraiser and they spent far too much time, effort, and, I assume, money, in showing the faults in adversary's appraisal, background and expertise. This Court prefers, and believes it to be more appropriate, that a party focuses its efforts on the validity of the opinion of its expert, rather than spending this much time and ink on "bad mouthing" the other expert. This Court is well aware that the appraisal process is not an exact science. Appraisal testimony should be used to aid the Court as a finder of fact, not to confuse either the appraiser or the Court by the creation and generation of over 1,000 printed pages concerning real estate that is worth, by all opinions of value, somewhere between \$230,000 and \$342,000.

Now that the Court has added to the unnecessary use of ink and paper, the valuation decision shall be made. Debtors' appraiser is a creditor of this estate and could be disqualified on that ground. However, the Court has considered the difficulty debtors have had in obtaining expert testimony and has considered

the fact that the appraiser has very little incentive to inflate or deflate his opinion of value, because he was paid "up front" for the appraisal. Therefore, he is not disqualified.

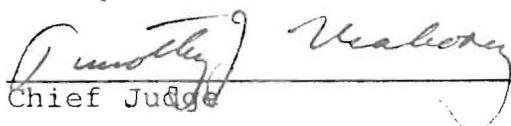
However, his methods are not acceptable. His testimony concerning the method of valuing one of the "comparables" included, and relied upon, erroneous information regarding the financing and the intent of the purchaser. The changes he made in his ultimate opinion of values were not satisfactorily justified.

The land must be valued as irrigated or irrigable, and not as dryland. Based upon a complete review of all of the evidence, the values are: South Place, \$240,000; North Place, \$34,000; House, \$20,000 = \$294,000.

Separate Journal Entry will be filed.

DATED: April 13, 1988.

BY THE COURT:



Chief Judge