



Determining Standard of Value in a Divorce-Related Valuation

When preparing an appraisal report, the appraiser should identify the applicable Standard of Value used in arriving at their conclusion.

In a divorce-related valuation in Arizona, that's as straight forward as trying to figure out which Cardinal team will show up on Sunday.

Standards of Value

The basic Standards of Value are Fair Market Value, Fair Value, Investment Value, Intrinsic Value and Book Value. These are not to be confused with Premises of Value (Going Concern, Liquidation or many others) or Valuation Approaches (Income, Market or Asset) or finally, Valuation Methods (Discounting, Capitalization, Guideline, Excess Earnings) or many others.

'Fair Value' in a Divorce

The State of Arizona currently has no hard-and-fast law or statutes indicating any specific standard to be used in a divorce valuation. It falls upon the shoulders of the Court to make that determination based on the facts and circumstances of each case.

Many Family Law courts sometimes utilize the Fair Value, without actually calling it the Fair Value. Herein lies a major

misconception; when the terminology 'Fair Value' is used in a Divorce setting, it usually is not the same as Fair Value used in a dissenting stockholder or shareholder oppression action. Often, despite the terminology used by The Court, the actual Standard used is not the one identified by the Court.

Determining The True Intent Of The Court

An example of this appears in the *Bibars* case (1 CA-CV 11-0473, COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPT. B, 2012 ARIZ. APP. UNPUBLISHED LEXIS 897). The Court states "We note, however, even wife's valuation document acknowledges that 'Fair value' (also known as investment value) refers to a standard of value of a business to a particular investor without regard to a sale or exchange ..." One can infer from this that the

Court believes Fair Value and Investment Value are synonymous. This just is not true. It is important that the entire opinion be read to determine the true intent of the Court as opposed to the specific name ascribed to their findings.

Case-by-Case Definition

The bottom line is that there is no definitive Standard of Value for divorces defined in Arizona. As of now, this arena is completely fact-driven, given the dynamics of each individual case.

As a final note, attorneys need to be conscious of the fact that terminology used in prior cases by the Court and the conclusion reached by the Court in those same cases may not go hand-in-hand. Sometimes the discussion of the case by the Court contradicts the Standard of Value that they referenced.



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DAVID CANTOR, CPA/ABV

Mr. Cantor has extensive experience in family law accounting and knowledge of relevant case law in Arizona and California. He has provided forensic accounting services on several hundred family law matters and testified in family law courts over 100 times. Please call or email him with your questions. 480.620.8486, dcantor@eppsforensics.com