

1 worth \$785,000 as of September 14, 2009. The petition was filed
2 May 18, 2009, about 4 months before Mr. Sault's date of value.
3 He testified that in his opinion the property would have declined
4 in value about one percent per month in the interim between
5 filing and his date of value.

6 On both direct and cross examination, Mr. Sault explained
7 that he valued the property as a single family residence, and
8 used the sales comparison approach. He testified he did not know
9 the home was used as a bed and breakfast operation, or that there
10 were 3 rooms available for paying guests. Nor did he value the
11 working organic farming operation on the bulk of the property,
12 covering more than 7-1/2 acres. Instead, he made significant
13 adjustments to comparables with "superior" landscaping. He
14 testified he did not consider the farming operation at all in
15 valuing the property, nor the crops or any farm equipment or
16 irrigation equipment. He stated that all of that required a
17 personal property appraisal, which he did not do. He did not
18 consider the farming operation at all, he did not count the
19 number of workers, had no knowledge of the volume of production
20 or sales, and none of the comparable sales he used were working
21 farms.

22 Ms. Peterson testified that the property is a working
23 organic farm that was damaged by wildfire. The irrigation system
24 had to be replaced on 10 acres, which are farmed on a year-round
25 basis, employing 10-12 workers continuously. Produce is sold at
26 at least 5 area farmers' markets, plus gourmet markets, and in

1 the past was shipped nationally. Ms. Peterson testified that at
2 the time she filed she could not afford to pay both the workers
3 and her bills, so she paid the workers. She believes the farm
4 can make it, and is producing over \$3,000 net per week after
5 paying labor, which she needs to pay mortgages and utilities.
6 She offered information concerning what she paid in labor, taxes
7 and other bills in May - June of 2009, and also her tax return
8 showing a loss. She also attempted to put value on her acreage
9 by referring to what she heard nearby acreage was offered at.

10 What debtor did not do - indeed, neither side did - was
11 offer any supportable opinion of the market value of the property
12 as a commercial farming operation. Mr. Perez called Mr. Owsley
13 as a witness. He testified he is a commercial real estate
14 broker. He looked at the property and saw a successful farming
15 operation. But he is not an appraiser, and could only state that
16 he thought Mr. Sault's value was low. He had not looked at any
17 sales comps.

18 The foregoing leaves the Court unable to set a value on the
19 property. Debtor argues it was not making money when she filed,
20 but that begs the question of what it was worth on the open
21 market when considering the highest and best use of the property.
22 Perhaps at the date of filing no one would be able to outperform
23 the debtor's productivity. Or maybe the farm would have been
24 worth substantially more to someone else. That is why competent
25 appraisals involving determinations of highest and best use are
26 important in any valuation. That is not to denigrate Mr. Sault

1 or Mr. Owsley. As the latter testified, Mr. Sault is a
2 professional, and so far as the record shows, he did what he was
3 asked to do - opine on the value of a single family residence
4 situated on approximately 10 acres. Commercial farming
5 operations and personal property valuations were not performed.
6 Nor was any analysis of the bed and breakfast operation. It is
7 possible that the highest and best use of the property is as a
8 single family residence, but the record before the Court is
9 inadequate. Mr. Sault testified the zoning for the property was
10 single family residence, so he chose to value it that way.

11 Conclusion

12 Debtor brought this motion to value, and has the burden of
13 establishing a value. For the reasons stated, the Court finds
14 and concludes that debtor has failed to meet her burden.
15 Accordingly, the motion is denied without prejudice.

16 IT IS SO ORDERED.

17 DATED: DEC -1 2010

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20 PETER W. BOWIE, Chief Judge
21 United States Bankruptcy Court
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