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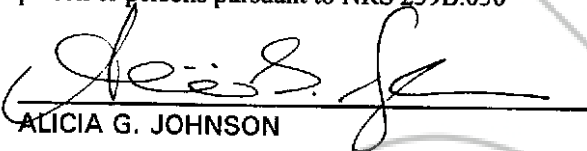
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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT**

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**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

CAROL S. AUSLEN, et al.

Plaintiffs,

vs.

JOHN SERPA, SR., individual,

Defendant.

CASE NO.: CV10-00370

DEPT. NO.: 4

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT**

This matter came before the Court for a bench trial on April 4, 2011- April 6, 2011. The parties were permitted to file post-trial briefs on the issue of fair market value. Defendant John Serpa, Sr. filed a Memorandum on April 8, 2011. Plaintiff Carol S. Auslen filed a Post Trial Brief Re: Fair Market Value and Highest and Best Use on April 13, 2011. The matter was taken under advisement on April 13, 2011.

The sole issue for trial in this matter was the fair market value of the six parcels that at one time secured the Promissory Note that Defendant personally guaranteed, which were identified as El Dorado County, California Assessor's Parcel Numbers 029-061-15-100, 029-061-12-100, 029-061-11-100, 029-066-18-100, 029-066-20-100, 029-061-09-100, ("Properties").

The following are the undisputed facts in this case:

1. The Defendant executed a Commercial Guaranty on January 17, 2007, in favor of Plaintiffs, wherein he personally guaranteed a Promissory Note, executed by Lake Tahoe Development Co., LLC in the amount of \$6,500,000, and a Deed of

1 Trust, which at one time secured the Promissory Note with the Properties in El  
2 Dorado County, California.

3 2. The parties have agreed that the amount owing under the Promissory Note is  
4 \$9,547,107.21, plus \$3,250 per diem interest from February 1, 2011, until  
5 judgment is entered, with attorneys' fees and costs to be determined after  
6 judgment is entered.

7 3. The parties have agreed that Defendant is liable for any amounts determined to  
8 be owed under the Promissory Note and Deed of Trust, after receiving a credit  
9 for the fair market value of the Properties that at one time secured the Promissory  
10 Note, or the successful bid at the foreclosure sale, whichever is greater.

11 4. The Properties were once part of a larger planned development of 29 parcels  
12 called "the Chateau."

13 5. The Chateau project is an 11.53 acre parcel situated at U.S. Highway 50 and  
14 Stateline Avenue in El Dorado County, California.

15 6. The Chateau project is divided into parcel A and parcel B.

16 7. Parcel A contains improvements.

17 8. The Properties are located on Parcel A.

18 9. The Properties have a total land area of 102,945 square feet or 2.36 acres and 188  
19 Tourist Accommodation Units.

20 10. The Properties sold at auction on January 5, 2011 for \$1.5 million.

21 Having considered the evidence presented at trial, the parties' arguments and post-trial  
22 briefs, the Court now makes the following findings of facts:

23 1. The current owner of the Properties, Robert Steven Hardy, testified that the value  
24 of the Properties is \$2 million.

25 2. The only bidder when the Properties were sold at auction was Mr. Hardy's agent,  
26 trustee SPS services, who purchased the property for \$1.5 million.

27 3. At the auction on January 5, 2011, Mr. Hardy authorized trustee SPS services to  
28 bid up to \$6 million dollars.

- 1 4. Since Mr. Hardy's purchase, there has been some interest by potential buyers in  
2 the property but there have been no formal offers made on purchasing the  
3 Properties.
- 4 5. Mr. Hardy has received an informal offer letter from JMA Ventures of \$4.5  
5 million for the Properties with the requirement that taxes of approximately \$1  
6 million be paid, netting an offer on the Properties of \$3.5 to \$4 million.
- 7 6. The Court appointed appraiser Stephen Bethel from Frazier Capital Valuation.
- 8 7. Mr. Bethel provided the Court with three estimates each of which are adjusted for  
9 taxes.
- 10 8. Mr. Bethel appraised the unimproved raw land value of the fee simple interest in  
11 the six parcels as a pro rata share of the entire Chateau project, to be \$3,490,000,  
12 which represents Mr. Bethel's assigned raw value of \$34 per square foot.
- 13 9. Mr. Bethel appraised the "as is" value of the fee simple interest in the six parcels  
14 as a pro rata share of the entire Chateau project, including the concrete  
15 foundation, utility installation and demolition of previous buildings, to be  
16 \$8,000,000.00.
- 17 10. Mr. Bethel appraised the land value of the fee simple interest in the Properties,  
18 assessed separately, as if they could each be sold as six individual properties, and  
19 without consideration of any existing site improvements. Mr. Bethel concluded  
20 this value to be \$5,660,000.
- 21 11. Steven R. Johnson of Johnson-Perkins and Associates testified on behalf of the  
22 Defendants and provided an appraisal of the Properties as part of the Chateau.
- 23 12. Mr. Johnson concluded that the value of the Properties as part of the Chateau is  
24 \$12 million.
- 25 13. Mr. Johnson's appraisal of \$12 million represents his assigned value, including  
26 the contribution of improvements, of \$95.57 per square foot  
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- 14. Without including improvements, Mr. Johnson approximated a value per square foot to be between \$50 and \$60 per square foot or approximately between \$5,147,250 and \$6,176,700.
- 15. Mr. Johnson's evaluation per square foot is based on the location and desirability of the Properties.
- 16. The location of the Chateau project is highly desirable.
- 17. Parcel A and Parcel B could be developed separately.
- 18. There is community support in South Lake Tahoe for the Chateau project to go forward.
- 19. The Tahoe Regional Planning Agency has issued a permit for the Chateau project as a whole.
- 20. The Permit does not apply to individual parcels of land within the Chateau project.
- 21. The effective period of the Permit has been tolled until certain parcels emerge from bankruptcy.
- 22. As of the date of foreclosure, January 5, 2011, the owners of the 29 parcels had not reached an agreement to sell the Chateau Project as a whole.

Given these facts the Court makes the following conclusions of law:

- 1. The Court may properly consider expert testimony relative to the highest and best use of the property, along with all other evidence in the record, in determining the fair market value of the Properties. Tahoe Highlander v. Westside Federal Savings and Loan Association, 95 Nev. 8, 588 P. 2d 1022 (1979).
- 2. Fair market value is generally defined as the price which a purchaser, willing but not obliged to buy, would pay an owner willing but not obliged to sell, taking into consideration all uses to which property is adapted and might in reason be applied. Unruh v. Streight, 96 Nev. 684, 615 P.2d 247 (1980).
- 3. Upon review of the credible evidence before it, including consideration of the appraisals by Mr. Johnson and Mr. Bethel of the unimproved land value of the

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six parcels and upon consideration of the testimony by Mr. Hardy, the current owner that on January 5, 2011, he authorized a bid of \$6,000,000, the Court finds that the fair market value of the Properties on January 5, 2011 was \$6,000,000.

Based on the foregoing and good cause appearing,

IT IS HEREBY ORDERED that the fair market value of the Properties on January 5, 2011 was \$6,000,000.

IT IS FURTHER ORDERED that Judgment is entered accordingly pursuant to the parties previously entered stipulation.

IT IS FURTHER ORDERED that Judgment is entered in favor of Plaintiffs against Defendant, after giving credit for the fair market value of the Properties at the time of the foreclosure sale, at \$3,547,107.21, plus \$3,250.00 per diem from February 1, 2011 until the date this judgment is entered, with attorney fees and costs to be determined.

DATED this 8 day of June, 2011.

Connie J. Steinheimer  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

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CASE NO. CV10-00370

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 8 day of June, 2011, I electronically filed the **FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT** with the Clerk of the Court by using the ECF system.

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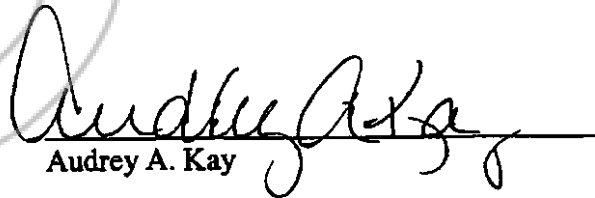
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- ALICIA JOHNSON, ESQ. for JENNIFER VALLIERE-NOBLE et al
- DOUGLAS BROWN, ESQ. for JOHN SERPA
- JOAN WRIGHT, ESQ. for JENNIFER VALLIERE-NOBLE et al

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DATE: JUN 09 2011

HOWARD W. CONYERS, Clerk of the Second Judicial District Court, in and for the County of Washoe, State of Nevada.

By A. Montgomery Deputy