

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH DAKOTA  
ROOM 211  
FEDERAL BUILDING AND U.S. POST OFFICE  
225 SOUTH PIERRE STREET  
PIERRE, SOUTH DAKOTA 57501-2463

IRVIN N. HOYT  
BANKRUPTCY JUDGE

TELEPHONE (605) 224-0560  
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April 25, 1989

Thomas Lloyd, Esq.  
326 Federal Building and  
United State Courthouse  
Pierre, South Dakota 57501

Thomas Tobin, Esq.  
Post Office Box 1456  
Aberdeen, South Dakota 57402

Re: Fred and Bessie Fanning Chapter 12 386-00115  
Re: Valuation of Property  
Described as:  
SE $\frac{1}{4}$ 10, S $\frac{1}{2}$ 11, E $\frac{1}{2}$  and NW $\frac{1}{4}$ 14,  
NE $\frac{1}{4}$  15 - 111-67  
Hand County, South Dakota

Dear Counsel:

The above captioned matter came on for hearing before this Court on April 25, 1989 pursuant to FmHA's valuation motion. The debtors, together with their counsel Mr. Tom Tobin, appeared and Farm Home appeared through their counsel Mr. Tom Lloyd. Maynard E. Sweet testified as appraiser for the debtors along with the debtor Fred Fanning. Clayton Kline testified as appraiser for FmHA.

The Court has considered all the testimony offered together with Exhibits A and B and Exhibit 1. In this particular case by virtue of the diversity between the appraisal methods employed by the two appraisers, the Court is left with no alternative but to accept one or the other appraisal. Normally, if the two appraisers use the same techniques which include the cost approach, income approach,

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and market data or comparative sales, the Court has a basis for comparison of the techniques of the respective appraisals. In this

particular case the appraiser for the debtors has developed a system unique unto himself. However, it does not allow the Court to readily compare his method with that of the creditor's appraiser. In fact, on cross-examination the appraiser for the debtor admitted that he did not make any adjustments as to soil class, time, percentage tillable, or any other standard classifications for adjustment. He indicated he "pulled out parts", however, there was no rationale as to how he accomplished this or the values he arrived. I am sure by virtue of the fact that Mr. Sweet has been appraising since 1962, he has developed a technique akin to Justice Potter Stewart's approach to defining pornography of "I know it when I see it", to establishing a value for the property he is working with. However, the result in this case showed a rather uninformed comparison and left the Court with no alternative but to basically disregard the same, by virtue of the fact that Mr. Sweet could give no explanation for his determination of value. On the other hand, Clayton Kline's appraisal is more in conformity with what is recognized as a standard appraisal and he could at least present plausible explanations for the approach that he used. While his approach may not be perfect, it did go a long way towards satisfying the Court that he spent a considerable amount of time and effort to inform himself of the comparable sales in areas and for a basis for comparison by using the soil types, the percent tillable, and other factors to be considered in comparing different tracks of land in an effort to make sure that they were truly comparable sales, meaning that price was not the only factor considered, something that was not done by the appraiser for the debtors.

The debtor Fred Fanning also testified as to his opinion of the value of the real estate, however, Mr. Fanning's knowledge was confined to the Christenson sale and a recent sale to Magness, however, there was no other indication of any particular knowledge or familiarity on his part.

Accordingly, the Court is satisfied considering all the testimony and the exhibits herein that the Court has no alternative but to adopt the value of \$167,850.00 as the market value of the above described property.

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Counsel for FmHA may prepare proposed findings of fact and conclusions of law to the Court.

Very truly yours,

Irvin N. Hoyt  
Chief Bankruptcy Judge

INH:sh

CC: Bankruptcy Clerk

CC: Bankruptcy Clerk