

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

FRANCISCO MAIOLINO : BK No. 11-12133
Debtor Chapter 13

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DECISION AND ORDER MODIFYING SECURED CLAIM

APPEARANCES:

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BEFORE ARTHUR N. VOTOLATO, United States Bankruptcy Judge

Heard on Debtor Francisco Maiolino's ("Maiolino") Motion to Modify (i.e., reduce) the Secured Claim of Creditor JP Morgan Chase Bank, N.A. ("Chase") to the fair market value of Maiolino's house on which Chase holds a mortgage. Maiolino contends that the value of his house at 57-59 Corinth Street, Providence, Rhode Island, is \$80,000. Chase places the value of the property at \$97,000.

The parties submitted a Joint Pre-Trial Order with exhibits including an opinion of value of \$80,000 by Peter H. Hurley ("Hurley") for the Debtor, and an appraisal of \$97,000 by Melissa M. Perrille ("Perrille") for Chase. It is stipulated that both witnesses are qualified as experts in real estate valuation, and the parties have submitted the matter for a decision based on the record, and without an evidentiary hearing.

Peter Hurley used the comparable (or comparative) sales approach in arriving at his opinion of value of the subject property, and Melissa Perrille used both the comparable sales approach and the income approach. Hurley and Perrille utilized different properties in this case, except for one point of agreement. Perrille used 232 Baker Street as a comparable rental property in applying her income approach, while Hurley used the same property as one of his comparable sales. Although their other examples differ, the appraisers agree that 232 Baker Street is

similar to the Debtor's house. The Baker Street property sold for \$80,000, on December 6, 2010.

Upon careful consideration, all of the evidence supporting a value higher than \$80,000 for the subject property was unpersuasive,¹ and based on the appraisals and our independent analysis of the evidence, this Court adopts \$80,000 as the correct estimate of the value of 57-59 Corinth Street. Ms. Perrille's supporting documentation and opinion of value are rejected. Therefore, Maiolino's Motion to Modify Chase's Secured Claim is **GRANTED**, and Judgment shall enter consistent with the terms of this Decision.

Entered:



Arthur N. Votolato
U.S. Bankruptcy Court

Entered on docket: 12/22/11

¹ Particularly off the mark is Perrille's characterization of Corinth Street as "suburban." In fact, it is a densely populated, classic inner-city neighborhood of predominantly multi-family houses, located one block from eight lanes of Interstate 95. See Creditor's Ex. B - Part 3, Pg. 12, attached as Exhibit A.

Borrower/Client	FRANCISCO MAIOLINO		
Property Address	57-59 CORINTH ST		
City	PROVIDENCE	County	PROVIDENCE
		State	RI
		Zip Code	02907
Lender	WASHINGTON MUTUAL/CHASE		

