



Thomas C. Horne
Attorney General

Office of the Attorney General
State of Arizona

Jeanne M. Galvin
Assistant Attorney General

April 2, 2014

Mr. William J. Wisniewski
4802 E. Ray Road
Ste. 23-223
Phoenix, AZ 85044

RE: Board of Appraisal Case No. 3638

Dear Mr. Wisniewski,

At its March 21, 2014, meeting the Board of Appraisal convened to discuss the above-referenced matter. At the conclusion of its consideration of the issues, the Board voted to offer you the opportunity to resolve the above-referenced matter by Consent Agreement and Order. Enclosed please find the Consent Agreement offered by the Board.

If the terms of the Consent Agreement and Order are acceptable to you, please sign where indicated and return the **original** to the Board of Appraisal at 15 South 15th Ave., Ste. 103A, Phoenix, Arizona 85007. A fully executed copy of the Consent Agreement and Order will be provided to you when it is signed by the Board or its Executive Director.

If you have any questions regarding the Consent Agreement and Order, please call me. The **original** must be received in the Board office by April 30, 2014. If we are unable to settle this matter by Consent Agreement and Order, the matter may proceed to a formal hearing.

Please call me if you have any questions.

Sincerely,

Jeanne M. Galvin
Assistant Attorney General

JG - #3764248

Enclosure as stated

cc: Debra Rudd, Executive Director

APR 30 2014 12:11
PHOENIX, AZ
OFFICE OF THE ATTORNEY GENERAL

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BEFORE THE ARIZONA STATE BOARD OF APPRAISAL

IN THE MATTER OF:

CASE No. 3638

WILLIAM J. WISNIEWSKI
Certified Residential Appraiser
Certificate No. 21021

**CONSENT AGREEMENT AND
ORDER OF DISCIPLINE**

In the interest of a prompt and judicious settlement of the above-captioned matter before the Arizona Board of Appraisal (“Board”) and consistent with public interest, statutory requirements and responsibilities of the Board, and pursuant to A.R.S. § 32-3601 *et seq.* and A.R.S. § 41-1092.07(F)(5), William J. Wisniewski (“Respondent”), holder of Certificate No. 21021 and the Board enter into this Consent Agreement, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as the final disposition of this matter.

On March 21, 2014, the Board held an Informal Hearing in case no. 3638. Respondent appeared personally and on his own behalf. At the conclusion of its consideration of the matter, the Board voted to offer the Respondent a Consent Agreement and Order of Discipline in lieu of further administrative proceedings.

JURISDICTION

1. The Arizona State Board of Appraisal (“Board”) is the state agency authorized pursuant to A.R.S. § 32-3601 *et seq.*, and the rules promulgated thereunder, found in the Arizona Administrative Code (“A.A.C.” or “rules”) at R4-46-101 *et seq.*, to regulate and control the licensing and certification of real property appraisers in the State of Arizona.

2. Respondent holds a Certificate as a Certified Residential Appraiser in the State of Arizona, Certificate No. 21021 issued on May 28, 2002, pursuant to A.R.S. § 32-3612.

CONSENT AGREEMENT

Respondent understands and agrees that:

1. The Board has jurisdiction over Respondent and the subject matter pursuant to A.R.S. § 32-3601 *et seq.*

2. Respondent has the right to consult with an attorney prior to entering into this Consent Agreement.

3. Respondent has a right to a public hearing concerning this case. He further acknowledges that at such formal hearing he could present evidence and cross-examine witnesses. Respondent irrevocably waives his right to such a hearing.

4. Respondent irrevocably waives any right to rehearing or review or to any judicial review or any other appeal of this matter.

5. This Consent Agreement shall be subject to the approval of the Board and shall be effective only when signed by the Executive Director and accepted by the Board. In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.

6. The Consent Agreement, once approved by the Board and signed by the Respondent, shall constitute a public record which may be disseminated as a formal action of the Board.

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1 FINDINGS OF FACT

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3 On or about December 30, 2013, the Board's investigation revealed the following:

4 1. This complaint involves an appraisal by Respondent of a single family
5 residence located at 5481 E. Oakhurst Way, Scottsdale AZ with an effective date of value
6 of January 12, 2012.

7 2. Respondent failed to correctly note the date of the appraisal on the cover
8 letter and the Appraisal and Report identification pages. USPAP Compliance Addendum
9 is outdated and references the departure rule that was eliminated in 2006.

10 3. Respondent failed to identify or analyze the subject's location, backing to
11 an arterial roadway.

12 4. The comparables are located in superior communities and/or have superior
13 views, and no adjustment is analyzed or applied. Specifically, one of the comparable
14 sales is located in a golf course community and has golf frontage. This location is not
15 reported in the sales comparison grid, nor is a view premium analyzed or applied.
16 Further, two of the other comparables are located in a gated community.

17 5. Moreover, Respondent does not explain the exclusion of the income
18 approach.

19 6. The appraisal report indicates that there have been no updates to the subject
20 property in 15 years. According to ARMLS data, home prices in the subject
21 neighborhood have recovered, but are still approximately 27% lower than 2005 prices.
22 There is no market support for the subject value to have risen 11% over that time frame.

23 7. Additionally, the subject is identified as good quality from Marshall &
24 Swift in the cost approach yet a cost per square foot of \$185 is applied to the subject
25 improvements. According to Marshall & Swift good quality construction is
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1 approximately \$90/SF and very good quality is approximately \$105/SF. The cost manual
2 cited does not support the cost figures used.

3 8. Overall, Respondent's failure to address the subject's arterial location,
4 superior locations of the comparables and applying cost figures significantly higher than
5 the cited source resulted in a misleading appraisal.

6 CONCLUSIONS OF LAW

7 Pursuant to A.R.S. § 32-3635, a certified or licensed appraiser in the State of
8 Arizona must comply with the standards of practice adopted by the Board. The
9 Standards of Practice adopted by the Board are codified in the USPAP edition applicable
10 at the time of the appraisal.

11 The conduct described above constitutes violations of the following provisions of
12 the USPAP, 2012-2013 edition:

13 **Standards Rule 1-1 (a); Standards Rule 1-2(e)(i); Standards Rule 1-4(a) and**
14 **(b)(ii); Standards Rule 1-6(a); Standards Rule 2-1(a) and (b); and Standards Rule 2-**
15 **2(b)(iii), (b)(vi) and (b)(viii).**

16 ORDER

17 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties
18 agree to the following:

19 1. Respondent shall complete the following education within six (6) months of
20 the effective date of this Consent Agreement: a **seven (7) hour course in Complex**
21 **Properties**. The education required under this paragraph may be counted toward the
22 continuing education requirements for the renewal of Respondent's certificate. **If at**
23 **all possible, this course shall be taken in person. Further, the Board recognizes that**
24 **Respondent recently completed the seven (7) hour USPAP 2014-2015 Update course,**
25 **which may be counted toward the continuing education requirements for the**
26 **renewal of Respondent's certificate.**

1 2. Proof of completion of the required education must be submitted to the
2 Board within 3 weeks of completion of the required coursework. Respondent shall be
3 responsible for all costs associated with completing the coursework as required in
4 paragraph 1.

5 3. Respondent has read and understands this Consent Agreement as set forth
6 herein, and has had the opportunity to discuss this Consent Agreement with an attorney
7 or has waived the opportunity to discuss this Consent Agreement with an attorney.
8 Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding
9 the expense and uncertainty of an administrative hearing.

10 4. Respondent understands that he has a right to a public administrative
11 hearing concerning each and every allegation set forth in the above-captioned matter, at
12 which administrative hearing he could present evidence and cross-examine witnesses. By
13 entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all
14 rights to such an administrative hearing, as well as all rights of rehearing, review,
15 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
16 concerning the matters set forth herein. Respondent affirmatively agrees that this Consent
17 Agreement shall be irrevocable.

18 5. Respondent understands that this Consent Agreement, or any part thereof,
19 may be considered in any future disciplinary action against him.

20 6. The parties agree that this Consent Agreement constitutes final resolution
21 of this disciplinary matter.

22 7. Time is of the essence with regard to this agreement.

23 8. If Respondent fails to comply with the terms of this Consent Agreement,
24 the Board shall properly institute proceedings for noncompliance with this Consent
25 Agreement, which may result in suspension, revocation, or other disciplinary and/or
26 remedial actions. Respondent agrees that any violation of this Consent Agreement is a

1 violation of A.R.S. § 32-3631(A)(8), which is willfully disregarding or violating any of
2 the provisions of the Board's statutes or the rules of the Board for the administration and
3 enforcement of its statutes.

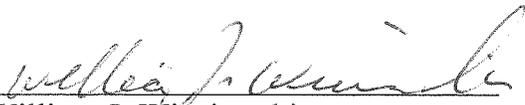
4 9. Respondent understands that this Consent Agreement does not constitute a
5 dismissal or resolution of other matters currently pending before the Board, if any, and
6 does not constitute any waiver, express or implied, of the Board's statutory authority or
7 jurisdiction regard any other pending or future investigation, action or proceeding.
8 Respondent also understands that acceptance of this Consent Agreement does not
9 preclude any other agency, subdivision or officer of this state from instituting other civil
10 or criminal proceedings with respect to the conduct that is the subject of this Consent
11 Agreement.

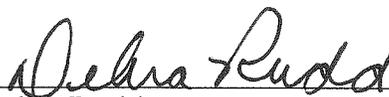
12 10. Respondent understands that the foregoing Consent Agreement shall not
13 become effective unless and until adopted by the Board of Appraisal and executed on
14 behalf of the Board. Any modification to this original document is ineffective and void
15 unless mutually approved by the parties in writing.

16 11. Respondent understands that this Consent Agreement is a public record that
17 may be publicly disseminated as a formal action of the Board.

18 12. Pursuant to the Board's Substantive Policy Statement #1, the Board
19 considers the violations in the above-referenced matter to constitute to a **Level III**
20 **Violation.**

21 DATED this 30 day of April, 2014.
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26 William J. Wisniewski
Respondent


Debra Rudd
Executive Director
Arizona Board of Appraisal

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ORIGINAL of the foregoing filed
this 30th day of April, 2014 with:

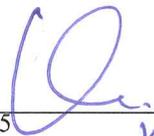
Arizona Board of Appraisal
1400 West Washington Street, Suite 360
Phoenix, Arizona 85007

COPY of the foregoing mailed regular
and certified mail
this 30th day of April, 2014 to:

William J. Wisniewski
4802 E. Ray Road
Ste. 23-223
Phoenix, AZ 85044

COPY of the foregoing sent or delivered
this 30th day of April, 2014 to:

Jeanne M. Galvin
Assistant Attorney General
Arizona Attorney General's Office
1275 West Washington, CIV/LES
Phoenix, Arizona 85007

By: 
3764265 _____
Kelly Luteijn