ARIZONA BOARD OF APPRAISAL

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ARIZONA BOARD OF APPRAISAL

August 23, 2012

Mr. Kurt D. Kleinman
444 S. Greenfield Road
Mesa, AZ 85206

Re: Board of Appraisal Case Nos. 3268 and 3269

Dear Mr. Kleinman,

As you know, the Board received the above-referenced complaints against you for two appraisals you performed of the following properties: **Case No. 3268:** 479 partially completed single family lots located Southwest of Dysart Road alignment & Jomax Road, Maricopa County, AZ 85387 with an effective date of value of January 12, 2011 and **Case No. 3269:** 312 partially finished single family lots located at the Northeast Corner of McCartney Road and Trekell Road, Pinal County, AZ 85122 with an effective date of value of January 12, 2011.

The Board held an Informal Hearing on these matters on July 13, 2012. In reviewing the matters, the Board considered the complaints, your responses thereto, the appraisals, the workfiles, the investigative reports and the testimony you provided during the Informal Hearing. At the conclusion of its consideration, the Board voted to offer you the opportunity resolve these matters with a letter of due diligence.

With respect to Case No. 3268: The Board concluded that you failed to include sufficient information in the appraisal report to permit the reader to conclude that the appraisal report is a credible report. Your methodology utilized valued the preliminarily platted subject subdivision by the Sales Comparison Approach using sales of subdivisions with full infrastructure. Deduction for the cost of putting in the subject infrastructure was deducted from the final indicated value of the Sales Comparison Approach. In addition, your methodology used the Developmental Approach to arrive at an indication of value from the Income Approach. Interviews with numerous qualified appraisers provided the consensus opinion that comparing the subject preliminarily platted subdivision in the Sales Comparison Approach to finished lot subdivisions, and the use of the Developmental Approach, without support from raw land or preliminarily platted subdivisions would not be a "stand alone" method or technique to produce a credible appraisal. The appraisal report included six sales of improved subdivisions, however, did not include any sales of residentially zoned raw land or preliminarily platted subdivision sales. The appraisers interviewed by the Board's investigator were in total

agreement that consideration of residentially zoned raw land or preliminarily platted subdivisions would be necessary for credible results in the market that existed in early 2011. There were adequate raw land sales, some with preliminary plats, available for use in this approach. Regarding the use of finished residential lots, it would be necessary, in addition to the cost of infrastructure, to consider and reflect, in some manner, the time and cost to the subject property to achieve final plat approval and completion of infrastructure. Without including sales of residentially zoned raw land or preliminarily platted sales of residential subdivisions, you have told the client and intended user that the use of fully improved single family lots and the developmental approach are the applicable approaches to utilize in arriving at an indication of market value for the subject property. In addition, there are various aspects of the Sales Comparison and Income Approaches that are considered to be errors including: density/zoning differences between comparable improved subdivision sales and the subject property; time frame to achieve completion of the subject lots when comparing to improved lots; and the cost and time frame necessary to acquire final platting and infrastructure in the Income Approach. It is not acceptable appraisal methodology to simply deduct the verbally provided infrastructure costs from the completed subdivision value conclusion provided by the Sales Comparison and Income Approaches to value. Finally, the workfile does not contain copies of revised pages of the appraisal report. As there were changes/revisions made to the original appraisal report provided to the client, the workfile should contain copies of the corrected/revised pages.

With respect to Case No. 3269: The Board concluded that you did not include sufficient information in the appraisal report to permit the reader to conclude that the appraisal report is a credible report. The methodology utilized valued the partially infrastructured subject subdivision by the Sales Comparison Approach using sales of subdivisions with full infrastructure. Deduction for the cost of putting in the subject's remaining infrastructure was deducted from the final indicated value for the Sales Comparison Approach. However, it would be necessary to support, in some manner, the contributory value, if any, of the partial infrastructure. In addition, your methodology using the Developmental Approach to arrive at an indication of value from the Income Approach, without additional data and analysis to support the contributory value, if any, of partial infrastructure, would not result in a credible appraisal conclusion, The Developmental Approach is not reasoned to have been completed correctly, as a result of a lack of recognition of the time to complete remaining infrastructure and model homes used in the analysis. In addition, typically, infrastructure costs are not all expended at one time; they would typically be spread out over time and be reflected in this manner in the discounted cash flow model. Moreover, interviews with qualified independent appraisers, as well as lender review appraisers, provided the consensus opinion that comparing the subject's partially infrastructured subdivision in the Sales Comparison Approach to finished lot subdivisions, and the use of a Developmental Approach, without support from raw land or partially infrastructured subdivisions would not be a "stand alone" method or technique to produce a credible appraisal. In addition, at the bottom of page 28, you did provide an opinion of the Highest and Best Use of the subject as vacant, however, you did not provide a conclusion of the Highest and Best use of the subject "As Improved" (as partially improved with infrastructure). An analysis, leading to an opinion of Highest and Best use "As Improved", would be necessary to provide support to the contributory value, if any, of the partial infrastructure. Moreover, the appraisal report included four sales of improved subdivisions; however, it did not include any sales of

residentially zoned raw land or partially infrastructured lots. Without including sales of residentially zoned raw land or partially infrastructured sales of residential subdivisions, you have told the client and intended user that the use of fully improved single family lots and the developmental approach are the applicable approaches to utilize in arriving at an indication of market value for the subject property.

Case No. 3268: The Board finds that your appraisal development and reporting violate the following standards of the Uniform Standards of Professional Appraisal Practice (USPAP), 2010-2011 edition:

Standards Rule 1-1(a) and (h); Standards Rule 1-4(a); Standards Rule 2-2(a); The Scope of Work Rule; and Standard Ethics—Recordkeeping.

Case No. 3269: The Board finds that your appraisal development and reporting violate the following standards of the Uniform Standards of Professional Appraisal Practice (USPAP), 2010-2011 edition:

Standards Rule 1-1(a) and (h); Standards Rule 1-3(b); Standards Rule 1-4(a); Standards Rule 2-1(a); Standards Rule 2-2(a)(ix) and the Scope of Work Rule---Acceptability.

Pursuant to Arizona Administrative Code (AAC) R4-46-31 and the Board's Substantive Policy Statement #1, the Board considers these violations to amount to a Level II Violation. In lieu of further proceedings, and pursuant to Arizona Revised Statutes (A.R.S.) §32-3632(B) and A.A.C. R4-46-301(C), the Board is willing to resolve these matters with this letter of due diligence, if you **successfully complete a fifteen (15) hour course in Basic Appraisal (with an exam). The education must be completed within six (6) months from the date of this letter as shown at the top of the first page.** A list of approved remedial and disciplinary education courses is on the Board's website for your convenience in locating the appropriate course. The education **<u>may not</u> be used toward your continuing education requirements for renewal during your next licensing period.** Proof of successful completion of the required course must be promptly submitted to the Board within **fourteen (14) days** of taking the coursework.

A letter of due diligence is a disciplinary action and is a matter of public record in your Board file and may be used in any future disciplinary proceedings. By signing below, you acknowledge that you have read and understand this letter of due diligence. You have the right to consult with legal counsel regarding this matter, and have done so or choose not to do so.

By signing this letter of due diligence, you are voluntarily relinquishing your right to an informal hearing, formal hearing, and judicial review in state or federal court with regard to the matter herein.

Upon signing this letter of due diligence and returning it to the Board, you may not revoke acceptance of this letter of due diligence. In addition, you may not make any modifications to this letter of due diligence. Any modifications to this letter of due diligence are ineffective and void unless mutually approved by you and the Board.

If any part of this letter of due diligence is later declared void or otherwise unenforceable, the remainder of the letter of due diligence in its entirety shall remain in force and effect.

If you fail to comply with the terms of this letter of due diligence, the Board may properly institute proceedings for noncompliance, which may result in suspension, revocation, or other disciplinary and/or remedial actions. By signing this letter of due diligence you are agreeing that any violation of this letter of due diligence is a violation of A.R.S. § 32-3631(A)(8), which is willfully disregarding or violating any of the provisions of the Board's statutes or the rules of the Board for the administration and enforcement of its statutes.

If you agree to accept this letter of due diligence, please execute this document by your signature below. Please return the original signed document to the Board at 1400 W. Washington, Suite 360, Phoenix, Arizona 85007, on or before **September 22, 2012.** If you do not return this original document on or before the specified date, the Board may conduct further proceedings.

Sincerely,

Margaret Burns

Margaret Burns
Interim Executive Director
Arizona Board of Appraisal

ACKNOWLEDGED AND AGREED

Kurt D. Kleinman, Respondent

10/1/12
Date

c: Jeanne M. Galvin, Assistant Attorney General

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