

BEFORE THE ARIZONA STATE BOARD OF APPRAISAL

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ARIZONA BOARD OF APPRAISAL
CASE NO. 3357

IN THE MATTER OF:

JAMES D. OSGOOD
Certified Residential Appraiser
Certificate No. 20068

**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), James D. Osgood ("Respondent"), holder of Certificate No. 20068 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 February 24, 2012, the Board met to discuss case no. 3357. Respondent appeared personally and on his own behalf. At the conclusion of the Board's consideration of this 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. 20068 issued on August 15, 1991, 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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FINDINGS OF FACT

On or about February 24, 2012, the Board’s investigation revealed the following:

- 1. This complaint involves an appraisal conducted and report written by Respondent of a single family residence located at 14087 W. Country Gables Drive, Surprise, AZ 85379, with an effective date of value of November 11, 2006.
- 2. There were seven additional sales in the subject’s subdivision that would have indicated a lower value.
- 3. The comparable sales you selected were superior; they were further away from the subject, on larger lots, single story homes with their own driveways.
- 4. The adjustments made are not credible.
- 5. The Board discussed the fact that your conclusion of value was \$325,000; the same as the “estimated market value” on the appraisal order form.

CONCLUSIONS OF LAW

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

The conduct described above constitutes violations of the following provisions of the USPAP, 2006 edition:

Standards Rule 1-1(a); Standards Rule 1-4(a); Standards Rule 2-1(a)

ORDER

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

- 1. **Upon the effective date of this Consent Agreement, Respondent’s Certificate as a Certified Residential Appraiser shall be placed on probation for a**

1 **minimum period of six (6) months.** During probation, Respondent shall comply with
2 USPAP, Arizona Revised Statutes and Appraisal Board rules. The effective date of this
3 Consent Agreement and Order is the date the Order is signed by the Executive Director
4 on behalf of the Board.

5 2. During the term of probation, Respondent shall: (a) demonstrate resolution
6 of the problems that resulted in this disciplinary action; and (b) otherwise comply with
7 the terms of this Consent Agreement.

8 3. Respondent shall complete the following education within six (6) months of
9 the effective date of this Consent Agreement: **a fifteen (15) hour course in Basic**
10 **Appraisal (to include successful completion of an exam); a five (5) hour course in**
11 **Ethics and the seven (7) hour 2012-2013 USPAP Update course.** The education
12 required under this paragraph **may not be counted toward the continuing education**
13 **requirements for the renewal of Respondent's certificate except that the seven (7)**
14 **hour USPAP Update course may be counted for continuing education requirements.**

15 The same class may not be repeated to fulfill the education requirements of this Consent
16 Agreement.

17 4. Proof of completion of the required education must be submitted to the
18 Board within 3 weeks of completion of the required coursework. Respondent shall be
19 responsible for all costs associated with completing the coursework.

20 5. During the period of probation, Respondent shall complete a minimum of
21 **twelve (12) appraisal reports. The appraisal reports may be demonstration reports.**

22 6. The Respondent shall file an appraisal log with the Board on a monthly
23 basis listing every Arizona appraisal that he has completed within the prior calendar
24 month by property address, appraisal type, valuation date, the date the appraisal was
25 issued, and the number of hours worked on each assignment. The report log shall be filed
26 monthly beginning the 1st day of the first month following the start of Respondent's

1 probationary period and continuing each month thereafter until the Board terminates the
2 probation. If the log reporting date falls on a Saturday, Sunday, or holiday, the report log
3 is due on the next business day. **Even if Respondent performs no appraisals within a**
4 **given month, he must still file an appraisal log with the Board showing that no**
5 **appraisals were performed.** The monthly log report may be filed by mail or facsimile.

6 7. The Board reserves the right to audit any of Respondent's reports and
7 conduct peer review, as deemed necessary, during the probationary period. The Board
8 may, in its discretion, seek separate disciplinary action against the Respondent for any
9 violation of the applicable statutes and rules discovered in an audit of the Respondent's
10 appraisal reports provided to the Board under the terms of this Consent Agreement.

11 8. Respondent's probation, including mentorship, shall continue until: (a)
12 Respondent petitions the Board for termination as provided in paragraph 9 and (b) the
13 Board terminates the probation. Upon petition by the Respondent for termination of the
14 probation, the Board will select and audit 3 of Respondent's appraisal reports.

15 9. At the end of **six (6) months** from the effective date of this Consent
16 Agreement, the Respondent may petition the Board for termination of his probation. If
17 the Board determines that Respondent has not complied with **all** the requirements of this
18 Consent Agreement, the Board, at its sole discretion, may either: (a) continue the
19 probation or (b) institute proceedings for noncompliance with this Consent Agreement,
20 which may result in suspension, revocation, or other disciplinary and/or remedial action.

21 10. Respondent shall not act as a supervising appraiser for other appraisers or
22 trainees, nor shall he act as a mentor, during the term of the probation. Respondent shall
23 also not teach any course related to real estate appraisals during the term of the probation.

24 11. Respondent shall comply with the Uniform Standards of Professional
25 Appraisal Practice in performing all appraisals and all Board statutes and rules.

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1 12. If, between the effective date of this Consent Agreement and the
2 termination of Respondent's probation by the Board, Respondent fails to renew his
3 certificate while under this Consent Agreement and subsequently applies for a license or
4 certificate, the remaining terms of this Consent Agreement, including probation shall be
5 imposed if the application for license or certificate is granted.

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

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

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

21 16. The parties agree that this Consent Agreement constitutes final resolution
22 of this disciplinary matter.

23 17. Time is of the essence with regard to this agreement.

24 18. If Respondent fails to comply with the terms of this Consent Agreement,
25 the Board shall properly institute proceedings for noncompliance with this Consent
26 Agreement, which may result in suspension, revocation, or other disciplinary and/or

1 remedial actions. Respondent agrees that any violation of this Consent Agreement is a
2 violation of A.R.S. § 32-3631(A)(8), which is willfully disregarding or violating any of
3 the provisions of the Board's statutes or the rules of the Board for the administration and
4 enforcement of its statutes.

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

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

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

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

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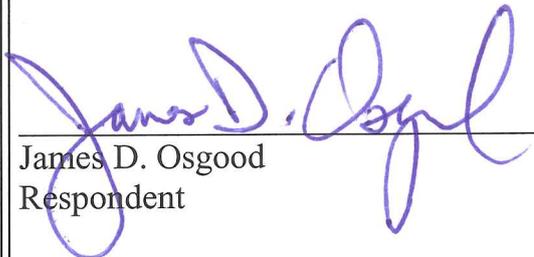
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DATED this 21st ¹² day of March ^{April}, 2012.


James D. Osgood
Respondent


Dan Pietropaulo
Executive Director
Arizona Board of Appraisal

ORIGINAL of the foregoing filed
this 12 day of April, 2012 with:

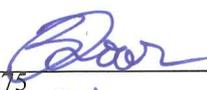
Arizona Board of Appraisal
1400 West Washington Street, Suite 360
Phoenix, Arizona 85007

COPY of the foregoing mailed regular
and certified mail 70091680000073871467
this 12 day of April, 2012 to:

James D. Osgood
4006 E. Via Montoya Dr.
Phoenix, AZ 85050

COPY of the foregoing sent or delivered
this 12 day of April, 2012 to:

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

By: 
2622875
Rebecca Lou, Regulatory Compliance Officer