

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE APPRAISERS COMMISSION
AND
MARY MCKINNY

Mary McKinny (McKinny) and the Missouri Real Estate Appraisers Commission (MREAC) enter into this Settlement Agreement for the purpose of resolving the question of whether McKinny's certification as a Certified General Appraiser, no. RA001644, will be subject to discipline. Pursuant to § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREAC under § 621.110, RSMo. The MREAC and McKinny jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo.

McKinny acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial

¹ All statutory citations are to the Revised Statutes of Missouri, Supp. 2011, unless otherwise noted.

evidence; the right to cross-examine any witnesses appearing against her at the hearing; the right to present evidence on her behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against her; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the MREAC at which time McKinny may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREAC.

Being aware of these rights provided to her by law, McKinny knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to her.

McKinny acknowledges that she has received a copy of documents that were the basis upon which the MREAC determined there was cause for discipline, along with citations to law and/or regulations the MREAC believes were violated. McKinny stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREAC that McKinny's certification as a Certified General Appraiser, certificate no. RA001644, is subject to disciplinary action by the MREAC in accordance with

the relevant provisions of Chapter 621, RSMo, and Sections 339.500 through 339.549, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREAC and McKinny in Part II herein is based only on the agreement set out in Part I herein. McKinny understands that the MREAC may take further disciplinary action against her based on facts or conduct not specifically mentioned in this document that are either now known to the MREAC or may be discovered.

I.
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREAC and McKinny herein jointly stipulate to the following:

1. Mary McKinny is certified as a Real Estate Appraiser – General, certification No. RA001644, which was originally issued December 2, 1991, is active, and expires June 30, 2012. Her business address is PO Box 82, 1001 Maple Terrace, Bethany, Missouri 64424.
2. In 2008, McKinny supervised Shawn Head, a certified residential appraiser.

I. Martinsville Appraisal

3. In July 2008, Head and McKinny prepared an appraisal on an agricultural property at 11891 West 240th Place, Martinsville, Harrison County, Missouri 64467.

4. The report was prepared for the use of Bank Northwest on a property owned by William and Jane Wyant.

5. The property consisted of 159 acres of agricultural land improved with one residence, and the building of a second residence planned. The appraisal proceeded on the assumption the second residence would be built.

6. Head and McKinny both signed an appraisal report stating the value of the property at \$390,000.

7. At all times relevant to this Complaint, McKinny was required to develop and report the results of Martinsville Appraisal in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), 2008 Edition.

8. The Martinsville Appraisal failed to comply with USPAP in the following respects:

a. The report failed to employ methods and techniques necessary to produce a credible appraisal in violation of SR 1-1(a), as the scope of the work was deficient, the report fails to consider the impact of

Conservation Reserve Program (CRP) land, there is no analysis of large acreage residential vs. nonresidential land, and there are deficiencies in all approaches to value;

b. The report committed substantial errors of omission in violation of SR 1-1(b) by omitting analysis of homesite valuation and excluding the cost of a septic system;

c. The report renders services in a careless or negligent manner in violation of SR 1-1(c) by the errors above;

d. The report fails to determine the scope of the work necessary to produce credible assignment results in violation of SR 1-2(h), in that the scope of work does not adequately address the complex analysis of a large acreage with a residence and a high percentage of land in CRP;

e. The report simply adds the cost value of the residence to the large acreage value, with an inadequate analysis, in violation of SR 1-4(a), (b), (c), and (e);

f. The report fails to clearly and accurately set forth the appraisal in a manner which will not be misleading, in violation of SR 2-1(a), and does not contain sufficient information to enable the intended users to understand the report properly, in violation of SR 2-1(b);

g. The report fails to summarize the scope of work used to develop the appraisal, in violation of SR 2-2(b)(vii), and fails to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions, in violation of SR 2-2(b)(viii); and

h. The appraisal fails to analyze highest and best use in violation of SR 2-2(b)(ix).

9. Because the appraisal failed to comply with the USPAP, there is cause for discipline of McKinny's certification under Section 339.432.2(7).

II. Gallatin Appraisal

10. In November 2008, Head and McKinny prepared an appraisal on a commercial property at Olive and Grand, Gallatin Industrial Park, Gallatin, Daviess County, Missouri 64640.

11. The report was prepared for the use of Bank Midwest on a property known as Patriot Storage, owned by Gallatin Properties LLC.

12. The property consisted of two units in an industrial park consisting of approximately five acres.

13. On November 21, 2008, Head and McKinny both signed an appraisal report stating the value of the property at \$211,500.

14. At all times relevant to this Complaint, McKinny was required to develop and report the results of Gallatin Appraisal in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), 2008 Edition.

15. The Gallatin Appraisal failed to comply with USPAP in the following respects:

- a. The appraisal report failed to correctly employ recognized methods and techniques necessary to produce a credible appraisal, in violation of SR 1-1(a), by valuing two properties and adding the values together, by omitting units of comparison, site adjustment analysis, support for site valuations, and definitions of value/source;
- b. The appraisal report contained substantial errors of omission or commission that significantly affected the appraisal, in violation of SR 1-1(b);
- c. Appraisal services were rendered in a careless or negligent manner, in violation of SR 1-1(c);
- d. The appraisal report failed to identify the type and definition of value, as no definition of value/source was cited in the report, in violation of SR 1-2(c);

- e. The scope of work did not adequately address the appraisal problem and the steps necessary to produce credible results, in violation of SR 1-2(h);
- f. The appraisal report failed to develop an opinion of highest and best use of the real estate, in violation of SR 1-3(b);
- g. The appraisal report failed to analyze such comparable sales data as are available to indicate a value conclusion, in violation of SR 1-4(a);
- h. The appraisal report failed to develop an opinion using a cost approach by an appropriate appraisal technique, in violation of SR 1-4(b);
- i. The appraisal report failed to analyze comparable rental data available to establish market rental value, failed to analyze operating expenses, failed to analyze data to estimate the rates of capitalization, and failed to base projections of future rent and expenses on reasonably clear and appropriate evidence for purposes of analyzing value by an income approach, in violation of SR 1-4(c);
- j. By adding the value of two properties together to derive total value, the appraisal report failed to analyze the effect on value of the assemblage of various estates or component parts of a property, in violation of SR 1-4(e);

- k. The appraisal report failed to clearly and accurately set forth the appraisal in a manner that is not misleading, in violation of SR 2-1(a);
- l. The appraisal report did not contain sufficient information to enable intended users to understand the report properly, in violation of SR 2-1(b);
- m. The appraisal report failed to accurately summarize the scope of work used to develop the appraisal, in violation of SR 2-2(b)(vii);
- n. The appraisal report failed to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions, in violation of SR 2-2(b)(viii); and
- o. The appraisal report failed to state the use of the real estate as of the date of value and to summarize the support and rationale for an opinion as to best and highest use, in violation of SR 2-2(b)(ix).

16. Because the appraisal failed to comply with the USPAP, there is cause for discipline of McKinny's certification under Section 339.432.2(7).

II.
Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREAC in this matter under the authority of § 536.060, RSMo, and §§ 621.045.3 and 621.110, RSMo.

17. **McKinny surrenders her certification. All indicia of certification shall be surrendered immediately** upon this Settlement Agreement becoming effective.

18. This Settlement Agreement does not bind the MREAC or restrict the remedies available to it concerning any future violations by McKinny of Sections 339.500 through 339.549, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

19. This Settlement Agreement does not bind the MREAC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREAC or may be discovered.

20. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

21. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

22. The parties to this Settlement Agreement understand that the MREAC will maintain this Settlement Agreement as an open record of the MREAC as required by Chapters 324, 339, and 610, RSMo, as amended.

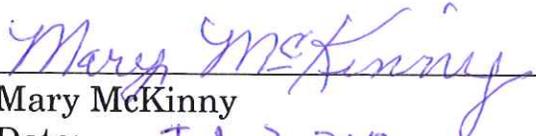
23. McKinny does hereby waive, release, acquit and forever discharge the MREAC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from

the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

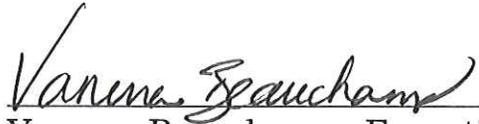
24. McKinny understands that she may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining McKinny's certification. If McKinny desires the Administrative Hearing Commission to review this Settlement Agreement, McKinny may submit her request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

25. If McKinny requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining McKinny's certification. If McKinny does not request review by the Administrative Hearing Commission, this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREAC.

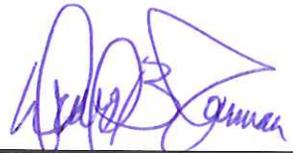
LICENSEE


Mary McKinny
Date: July 3, 2012

Missouri Real Estate Appraisers
Commission


Vanessa Beauchamp. Executive
Director
Date: 7-16-12

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