

The Evidentiary Hearing: A Demonstrative Exhibit on Direct and Cross Examination, Foundation and Hearsay

Hon. Janet S. Baer, Moderator

U.S. Bankruptcy Court (N.D. Ill.); Chicago

Hon. Donald R. Cassling

U.S. Bankruptcy Court (N.D. Ill.); Chicago

Hon. Thomas M. Lynch

U.S. Bankruptcy Court (N.D. Ill.); Rockford



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The Evidentiary Hearing

**A Demonstrative Presentation on Direct and Cross Examination,
Foundation and Hearsay**

Hon. Janet S. Baer, ND IL - Chicago
Hon. Donald R. Cassling, ND IL - Chicago
Hon. Catherine J. Furay, WD WI – Eau Claire
Hon. Thomas M. Lynch, ND IL - Rockford

First Vignette for ABI Consumer Conference: 523(a)(2) case:

Smith vs. Brown

Creditor John Smith has filed an Adversary Complaint against Debtor James Brown under section 523(a)(2) of the Bankruptcy Code. The Plaintiff, Mr. Smith, is a local south side tavern owner and well known “lender of last resort” in the neighborhood. He runs his loan operation out of his tavern and is known to make loans to patrons down on their luck who need a short term loan and are willing to pay a high interest rate as they have nowhere else to turn.

In this case, Smith made a short term loan to James Brown in the amount of \$40,000. Mr. Brown was a local real estate broker who ran into a cash flow problem when commissions that he was expecting from his sale of certain condominiums did not materialize and he needed to pay his every- day living expenses. Brown obtained the loan from Smith by visiting Smith at his bar at the urging of others in the neighborhood who similarly borrowed from Mr. Smith or knew of people who had borrowed from Mr. Smith. Mr. Smith was well known to the Bankruptcy Judges in the community as many of the loans Mr. Smith made ended up as claims in Bankruptcy cases. Mr. Smith generally filed 523(a)(2) actions when this occurred.

The original loan, in the principal amount of \$40,000 was due along with interest of \$4,000 in 30 days. The loan was “evidenced ” similar to a Pay Day Loan, by a personal check that Brown gave to Smith postdated to the due date in the amount of \$44,000. Brown failed to pay the principal and interest on the loan on the initial due date; failed to pay the principal and interest (then \$8800) on the extended due date; and judgment was ultimately obtained by Smith in State Court for amounts due on the loan plus interest and fees. Brown filed a chapter 7 case shortly after Smith obtained the state court judgment, seeking to discharge all of his debts including the loan from Smith. Smith alleges in the Adversary Complaint that Debtor misled him in obtaining the loan, had no intention of paying back the loan and never had the ability to pay back the loan.

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James Brown
1234 My Street
Chicago, IL 65555

1010

Date 1-5-14

Pay to John Smith \$ 44,000.00
the order of for 44 thousand and 00/100 Dollars

NATIONAL BANK
CHICAGO, IL

Memo loan @ 12.5-13 loan pay back James Brown
:0123456789: 01000200005 1010

James Brown
1234 My Street
Chicago, IL 65555

1016


Date 4-5-14

Pay to John Smith \$ 8800.00
the order of eight thousand eight hundred and 00/100 Dollars

NATIONAL BANK
CHICAGO, IL

Memo Interest James Brown
:0123456789: 01000200005 1016

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| | |
|--|---|
| John Smith The Corner Bar Chicago, IL 66666 | 9023 <u>12-5-13</u> Date |
| Pay to <u>James Brown</u> the order of <u>forty thousand even</u> | <u>\$40,000.⁰⁰</u> Dollars |
| The Corner Bank Chicago, IL |  |
| Memo <u>Loan personal</u> | |
| :0987654321: 06000600006 | 9023 |

Second Vignette – Expert Testimony in Valuation Hearing

Debtor in a Chapter 13 case has moved to strip a second lien on the ground that the property is worth less than the amount of the first mortgage. This is a binary decision for the judge – if there is even a single dollar’s worth of property value available to satisfy the junior mortgage, then the junior mortgage may not be stripped.

Debtor has argued that the property is worth less than the amount of the first mortgage, relying on a Zillow appraisal, together with the Debtor’s own observations about house sales in his neighborhood over a twenty-year period (he has to go back that far, because there haven’t been any sales in Debtor’s particular neighborhood over the last couple of years).

Bank has hired Cruella Whiplash (sister of Snidely and partner in the firm Whiplash and Whiplash) as its valuation expert. Ms. Whiplash has over thirty years’ experience in rendering real-estate valuation opinions throughout the state of Illinois. She is the bank’s “go-to” appraiser, having represented them in over 150 different appraisals in the last five years. In fact, the bank is her largest client and her partnership in the firm might be jeopardized if she lost its business.

Although she has some practice conducting residential real-estate appraisals, the vast majority of her experience has been in conducting commercial real-estate appraisals involving hotels, shopping centers, office buildings and other commercial real estate where the primary method of valuation she has typically used has been a “capitalization of income” approach. By contrast, when she occasionally is asked to conduct a residential real-estate appraisal, she normally uses a “comparable sales” approach as her primary method of evaluation. In both situations, however, she also uses alternative approaches (including the “replacement” approach) as a secondary method of checking the results she obtained through her primary approach.

In this particular case, the parties agree that the total amount of the first mortgage is \$125,000. Debtor has testified that he believes the home has a current value of only \$115,000, while Ms. Whiplash has opined that the property is easily worth \$250,000. Because no sales have occurred in the immediate neighborhood, Ms. Whiplash has relied on comparable sales from across town, where sales have been brisk because of the good schools and transportation available there and she has made downward adjustments in her valuation to account for the relatively poorer schools and transportation in Debtor’s immediate neighborhood. She also justifies her valuation opinion by noting the tight rental market in town, which would confirm her valuation using the capitalization-of-income approach with which she is most familiar. Finally, she uses her opinion to criticize Debtor’s valuation as the work of a self-interested layman with no experience in conducting real-estate appraisals. She is particularly contemptuous of the Debtor’s reliance upon Zillow, although discovery has revealed that Ms. Whiplash is not above referring to Zillow when its results support her own conclusions.

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Uniform Residential Appraisal Report

File #

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address 1234 Rundown Street **City** Evanston **State** IL **Zip Code** 60202
Borrower Bullwinkle Moose **Owner of Public Record** Bullwinkle Moose **County** COOK

Legal Description See Title Policy
Assessor's Parcel # 12-34-567-891-000 **Tax Year** 2013 **R.E. Taxes** \$ 5,000
Neighborhood Name Wrong Side of Town **Map Reference** 98765 **Census Tract** 4321

Occupant Owner Tenant Vacant **Special Assessments** \$ 0 PUD **HOA** \$ per year per month
Property Rights Appraised Fee Simple Leasehold Other (describe)

Assignment Type Purchase Transaction Refinance Transaction Other (describe) **Market Value**
Lender/Client Last Resort Bank **Address** 123 Main Street, Evanston, IL
 Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? Yes No
 Report data source(s) used, offering price(s), and date(s).

did did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. **No contract pending**

Contract Price \$ **Date of Contract** **Is the property seller the owner of public record?** Yes No **Data Source(s)**
 Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? Yes No
 If Yes, report the total dollar amount and describe the items to be paid.

Note: Race and the racial composition of the neighborhood are not appraisal factors.

| Neighborhood Characteristics | | One-Unit Housing Trends | | One-Unit Housing | | Present Land Use % | |
|---|---|-------------------------|------------------|------------------|---------------------|--------------------|-------------|
| Location <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Rural | Property Values <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining | PRICE \$ (000) | AGE (yrs) | One-Unit | 75 % | 2-4 Unit | 10 % |
| Built-Up <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25% | Demand/Supply <input type="checkbox"/> Shortage <input type="checkbox"/> In Balance <input checked="" type="checkbox"/> Over Supply | | | | | | |
| Growth <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow | Marketing Time <input type="checkbox"/> Under 3 mths <input checked="" type="checkbox"/> 3-6 mths <input type="checkbox"/> Over 6 mths | 45 | Low | 30 | Multi-Family | 5 % | 5 % |
| Neighborhood Boundaries Elevated train tracks to the East; Evanson High School to the West; | | 190 | High | 125 | Commercial | 5 % | 5 % |
| Edge Street to the North; Cemetery to the South | | 102 | Pred. | 50 | Other | 5 % | 5 % |
| Neighborhood Description This neighborhood is on the "other side of the tracks." Higher crime; lower income. All amenities available in the immediate area -- schools, shopping, hospitals | | | | | | | |

Market Conditions (including support for the above conclusions) Moderate market conditions for the area. Numerous foreclosures and short sales but that is slowing down. Most forms of financing available now with more FHA/VA than conventional. Appears to be over supply.

Dimensions 30 x 125 **Area** 3750 sq. ft. **Shape** Rectangular **View** N. Res.
Specific Zoning Classification RS-2 **Zoning Description** Residential Single Unit (Detached House) Distr.
Zoning Compliance Legal Legal Nonconforming (Grandfathered Use) No Zoning Illegal (describe)
 Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? Yes No If No, describe

| Utilities | Public | Other (describe) | Public | Other (describe) | Off-site Improvements—Type | Public | Private |
|--------------------|-------------------------------------|------------------|-----------------------|-------------------------------------|----------------------------|-------------------------------------|--------------------------|
| Electricity | <input checked="" type="checkbox"/> | | Water | <input checked="" type="checkbox"/> | Street | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Gas | <input checked="" type="checkbox"/> | | Sanitary Sewer | <input checked="" type="checkbox"/> | Alley | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

FEMA Special Flood Hazard Area Yes No **FEMA Flood Zone** FEMA Map # 12345X **FEMA Map Date** 8/25/13
 Are the utilities and off-site improvements typical for the market area? Yes No If No, describe
 Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? Yes No If Yes, describe

| General Description | | Foundation | | Exterior Description materials/condition | | Interior materials/condition | |
|---|--|---|--|--|---|--|--|
| Units <input checked="" type="checkbox"/> One <input type="checkbox"/> One with Accessory Unit | <input type="checkbox"/> Concrete Slab <input type="checkbox"/> Crawl Space | <input checked="" type="checkbox"/> Full Basement <input type="checkbox"/> Partial Basement | Foundation Walls Concrete / Average | Exterior Walls Brick / Avg | Floors | | |
| # of Stories 2 | Basement Area 939 sq. ft. | Roof Surface Asphalt / Avg | Gutters & Downspouts Aluminum/Avg | Trim/Finish | Walls | | |
| Type <input checked="" type="checkbox"/> Det. <input type="checkbox"/> Att. <input type="checkbox"/> S-Det./End Unit | Basement Finish 95 % | Window Type Db Hung / Avg | Storm Sash/Insulated Aluminum | Bath Floor | Bath Wainscot | | |
| <input type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Under Const. | Evidence of <input type="checkbox"/> Infestation | Screens Aluminum | Amenities <input type="checkbox"/> Woodstove(s) # | Car Storage <input type="checkbox"/> None | Car Storage <input type="checkbox"/> None | | |
| Design (Style) 2 story | <input type="checkbox"/> Outside Entry/Exit <input type="checkbox"/> Sump Pump | | | Driveway # of Cars | Driveway Surface | | |
| Year Built 1951 | <input type="checkbox"/> Dampness <input type="checkbox"/> Settlement | | | Attic <input checked="" type="checkbox"/> None | Heating <input checked="" type="checkbox"/> FWA <input type="checkbox"/> HWBB <input type="checkbox"/> Radiant | Amenities <input type="checkbox"/> Fireplace(s) # | Fence Wood |
| | | | | <input type="checkbox"/> Drop Stair <input type="checkbox"/> Stairs | <input type="checkbox"/> Other | Fuel | <input checked="" type="checkbox"/> Garage # of Cars 2 |
| | | | | <input type="checkbox"/> Floor <input type="checkbox"/> Scuttle | Cooling <input checked="" type="checkbox"/> Central Air Conditioning | <input checked="" type="checkbox"/> Patio/Deck | <input type="checkbox"/> Porch |
| | | | | <input type="checkbox"/> Finished <input type="checkbox"/> Heated | <input type="checkbox"/> Individual <input type="checkbox"/> Other | <input type="checkbox"/> Pool | <input type="checkbox"/> Other |
| | | | | Appliances <input checked="" type="checkbox"/> Refrigerator <input checked="" type="checkbox"/> Range/Oven <input type="checkbox"/> Dishwasher <input type="checkbox"/> Disposal <input checked="" type="checkbox"/> Microwave <input checked="" type="checkbox"/> Washer/Dryer <input type="checkbox"/> Other (describe) | | | <input type="checkbox"/> Att. <input checked="" type="checkbox"/> Det. <input type="checkbox"/> Built-in |
| Finished area above grade contains: 7 Rooms 4 Bedrooms 2 Bath(s) 1,735 Square Feet of Gross Living Area Above Grade | | | | | | | |
| Additional features (special energy efficient items, etc.) | | | | | | | |

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). Kitchen and baths updated 7-10 years ago. Subject is 2-story with functional floor plan. Subject improved with 2nd story addition of 750 sq. ft. in last 6 years. Improvements are of good quality. Subject has fully finished basement with rec room and full bedroom. Has 2 car detached garage.

Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? Yes No If Yes, describe

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? Yes No If No, describe

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Uniform Residential Appraisal Report

File #

| | | | |
|---|---|--|--|
| There are 0 comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ | | to \$ | |
| There are 8 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 130,000 | | to \$300,000 | |
| FEATURE | SUBJECT | COMPARABLE SALE # 1 | COMPARABLE SALE # 2 |
| Address | 1234 Rundown Street Evanston, IL 60202 | 5678 Flower Street Evanston, IL 60201 | 2345 Sunshine Street Evanston, IL 60201 |
| Proximity to Subject | | 2 miles | 1 mile |
| Sale Price | \$ | \$300,000 | \$275,000 |
| Sale Price/Gross Liv. Area | \$ sq. ft. | \$ sq. ft. | \$ sq. ft. |
| Data Source(s) | | Multiple Listing Service | Multiple Listing Service |
| Verification Source(s) | | MS# 98765 | MS# 87654 |
| MS# 76543 | | | |
| VALUE ADJUSTMENTS | DESCRIPTION | DESCRIPTION | +(-) \$ Adjustment |
| Sale or Financing Concessions | | Conv. | |
| Date of Sale/Time | | 5/14 | |
| Location | | Better | -\$10,000 |
| Leasehold/Fee Simple | | Fee Simple | |
| Site | 3750 sq. ft. | 4000 sq. ft. | |
| View | N. Res. | | |
| Design (Style) | 2 story | 2 story | |
| Quality of Construction | Q4 | Q4 | |
| Actual Age | 61 | 50 | |
| Condition | C3 | C2 | -\$10,000 |
| Above Grade | Total Bdms. Baths | Total Bdms. Baths | Total Bdms. Baths |
| Room Count | 7 4 2 | 8 5 2 | 7 4 2 |
| Gross Living Area | 1735 sq. ft. | 1800 sq. ft. | -\$5,000 |
| Basement & Finished Rooms Below Grade | 939 sq. ft. 1rr: 1br | 950 sq. ft. 1rr: 1br | |
| Functional Utility | Average | Average | |
| Heating/Cooling | Forced Air/CA | Forced Air/CA | |
| Energy Efficient Items | Average | Average | |
| Garage/Carport | 2 Car Garage | 2 Car Garage | |
| Porch/Patio/Deck | Porch | Deck | |
| | | | |
| | | | |
| Net Adjustment (Total) | | <input type="checkbox"/> + <input checked="" type="checkbox"/> - | \$ 25,000 |
| Adjusted Sale Price of Comparables | | Net Adj. % Gross Adj. % | \$ 275,000 |
| | | | \$ 270,000 |
| | | | \$ 250,000 |
| <input checked="" type="checkbox"/> did <input type="checkbox"/> not research the sale or transfer history of the subject property and comparable sales. If not, explain | | | |
| My research <input type="checkbox"/> did <input checked="" type="checkbox"/> did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal. | | | |
| Data source(s) | | | |
| My research <input type="checkbox"/> did <input checked="" type="checkbox"/> did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale. | | | |
| Data source(s) | | | |
| Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3). | | | |
| ITEM | SUBJECT | COMPARABLE SALE # 1 | COMPARABLE SALE # 2 |
| Date of Prior Sale/Transfer | | | |
| Price of Prior Sale/Transfer | | | |
| Data Source(s) | | | |
| Effective Date of Data Source(s) | | | |
| Analysis of prior sale or transfer history of the subject property and comparable sales | | | |
| Summary of Sales Comparison Approach | | | |
| Indicated Value by Sales Comparison Approach \$ 250,000 | | | |
| Indicated Value by: Sales Comparison Approach \$ 250,000 Cost Approach (if developed) \$ Income Approach (if developed) \$ 270,000 | | | |
| The market approach (sales comparison approach) is considered the best indicator of value, but due to a very active rental market the income approach was also considered. | | | |
| This appraisal is made <input type="checkbox"/> "as is", <input checked="" type="checkbox"/> subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or <input type="checkbox"/> subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair: Personal property not given any value. All mechanicals assumed to be in working order. | | | |
| Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 250,000, as of 8/25/14, which is the date of inspection and the effective date of this appraisal. | | | |

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Uniform Residential Appraisal Report

File #

This report form is designed to report an appraisal of a one-unit property or a one-unit property with an accessory unit; including a unit in a planned unit development (PUD). This report form is not designed to report an appraisal of a manufactured home or a unit in a condominium or cooperative project.

This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. Modifications, additions, or deletions to the intended use, intended user, definition of market value, or assumptions and limiting conditions are not permitted. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment. Modifications or deletions to the certifications are also not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization, are permitted.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the interior and exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

INTENDED USE: The intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction.

INTENDED USER: The intended user of this appraisal report is the lender/client.

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.
2. The appraiser has provided a sketch in this appraisal report to show the approximate dimensions of the improvements. The sketch is included only to assist the reader in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.
5. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing this appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.
6. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.

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Uniform Residential Appraisal Report

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APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
2. I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.
3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.
5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.
9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.
11. I have knowledge and experience in appraising this type of property in this market area.
12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).
19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.
20. I identified the lender/client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.

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Uniform Residential Appraisal Report

File #

- 21. The lender/client may disclose or distribute this appraisal report to: the borrower; another lender at the request of the borrower; the mortgagee or its successors and assigns; mortgage insurers; government sponsored enterprises; other secondary market participants; data collection or reporting services; professional appraisal organizations; any department, agency, or instrumentality of the United States; and any state, the District of Columbia, or other jurisdictions; without having to obtain the appraiser's or supervisory appraiser's (if applicable) consent. Such consent must be obtained before this appraisal report may be disclosed or distributed to any other party (including, but not limited to, the public through advertising, public relations, news, sales, or other media).
22. I am aware that any disclosure or distribution of this appraisal report by me or the lender/client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.
23. The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties.
24. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.
25. Any intentional or negligent misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq., or similar state laws.

SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

- 1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER

Signature (Curella Whiplash)
Name Curella Whiplash
Company Name Whiplash & Whiplash
Company Address 4321 Main Street Chicago, IL
Telephone Number 312-012-3456
Email Address wearegood@gmail.com
Date of Signature and Report 8/25/14
Effective Date of Appraisal 8/25/14
State Certification # 13579
or State License #
or Other (describe) State #
State Illinois
Expiration Date of Certification or License 1/2/15

ADDRESS OF PROPERTY APPRAISED
1234 Rundown Street
Evanston, IL 60202
APPRAISED VALUE OF SUBJECT PROPERTY \$ 250,000
LENDER/CLIENT
Name Last Resort Bank
Company Name
Company Address 123 Main Street Evanston, IL 60201
Email Address lastresort@gmail.com

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature
Name
Company Name
Company Address
Telephone Number
Email Address
Date of Signature
State Certification # or State License #
State
Expiration Date of Certification or License

SUBJECT PROPERTY

- Did not inspect subject property
Did inspect exterior of subject property from street Date of Inspection
Did inspect interior and exterior of subject property Date of Inspection

COMPARABLE SALES

- Did not inspect exterior of comparable sales from street
Did inspect exterior of comparable sales from street Date of Inspection