

FILED  
BOARD OF  
REAL ESTATE APPRAISERS  
CHARLES F. KIRK  
Acting Executive Director

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE REAL ESTATE APPRAISER BOARD

In the Matter of:

HELENE JACOBSON  
Certification #42RG00192400

CONSENT ORDER

COPY

CERTIFIED TRUE COPY

This matter was opened before the New Jersey State Real Estate Appraiser Board (the "Board") upon the Board's receipt of a complaint from Joon S. Lee regarding two appraisal reports that respondent Helene Jacobson prepared in October 2007 on property located at 2100 North Central Road, Fort Lee, New Jersey (hereinafter the "subject property"). Mr. Lee alleged, among other items, that respondent engaged in professional misconduct when preparing the two reports. In investigating this matter, the Board has considered available information, to include copies of the two appraisal reports which were prepared on the subject property, the first report dated October 10, 2007 and the second dated October 25, 2007. The Board has also considered a written statement dated August 21, 2010 submitted by respondent, oral testimony offered by respondent when she appeared before the Board on April 26, 2011, information and documents maintained within respondent's workfile for the two appraisal reports, and copies of resolutions made by the Fort Lee Zoning Board of Adjustment, related to the development of the subject property, on October 23, 2007 and on June 10, 2008.

Upon review of available information, the Board has

concluded that respondent, a Managing Director at CB Richard Ellis, participated in the preparation of the two appraisal reports on the subject property, and signed both reports. Both reports were prepared for respondent's client, JMC Capital Partners (the lender for the project). While another appraiser certified in the State of New York, Mark Godfrey, also signed both reports and inspected the property (respondent certified that she did not personally inspect the property), respondent necessarily accepted full responsibility for the contents of both reports by co-signing the reports with Mr. Godfrey (Mr. Godfrey does not hold any license or certification to practice real estate appraising issued by the State of New Jersey).

The Board finds that respondent initially prepared a report on the subject property dated October 10, 2007, which report was predicated on assumptions that the subject property had a gross building area (exclusive of the garage) of 145,813 square feet and net sellable area of 118,801 square feet. The report was further predicated on assumptions that 91 condominium units would be developed on seven floors of the property (13 units per floor).

Following completion of the first report, respondent prepared a second report on the property dated October 25, 2007. The second report was prepared at the request of JMC Capital Partners for the purpose of estimating the value of a larger project. The second report differed from the first in that it was based on certain assumptions, reported as "salient facts," including that the property had been approved for a gross building area (exclusive of the garage) of 177,520 square feet and net sellable area of 141,830 square feet,

with 99 units to be developed (to include 98 condominium units on seven floors of the property and a 7000 square foot penthouse unit).

Respondent valued the property "as is," "as complete - condominium net sell out" and "as complete - condominium gross sell out" in both reports. The value conclusions for the larger development reported in the second appraisal were between approximately 22 and 33 percent higher than those in the first report.

It is apparent that the higher value conclusions in the second report are directly related to, and a function of, the analysis in the second report having been predicated on assumptions, which were stated as "facts," that the property could be developed at increased levels (that is, with significantly increased net sellable area, and with eight additional units to include the 7000 square foot penthouse). When appearing before the Board, respondent testified that she was satisfied that the items reported as "fact" in the second report relating to the zoning approvals for the larger project were supported by documentation which she reviewed prior to signing the report concerning the actions of the Fort Lee Board (specifically to include a copy of a transcript of a hearing that was held before the Borough of Fort Lee Zoning Board of Adjustment on October 9, 2007) and information provided to her by the borrower on the project.

The Fort Lee Zoning Board did not, in October 2007, approve the property for development at the higher levels reported in the second appraisal. Rather, in October 2007, the Zoning Board considered the request before it to develop the property to a maximum

of 91 condominium units (without any development of a penthouse unit), and approved that request.<sup>1</sup> Consistent therewith, the Zoning Board adopted a resolution on October 23, 2007, approving the project for development of a maximum of 91 condominium units. The Fort Lee Zoning Board's Resolution did not include approval for development of a penthouse unit. Accordingly, there was no factual basis to support the statement within the second report that the project had been approved for development of 98 condominium units and a penthouse unit.

The Board thus finds respondent's second appraisal report to have been developed on a flawed predicate; namely, the erroneous reporting as "fact" of a development plan that had not then been approved by the Fort Lee Zoning Board. While respondent could have developed the second report by clearly and conspicuously positing the increased project size as an extraordinary assumption, she did not do so, and instead reported the increased project size as a "fact" in the appraisal. The Board finds that respondent thereby violated Standards Rules 1-2(f) and 2-2 (a)(x) of the Uniform Standards of Professional Appraisal Practice ("USPAP").

Appraisers licensed or certified by this Board are required, pursuant to N.J.A.C. 13:40A-6.1(a), to ensure that all appraisals, at a minimum, conform to the USPAP. An appraiser's

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The Fort Lee Zoning Board did ultimately approve the proposed larger development plan, but did so on June 10, 2008, (following a hearing on May 27, 2008), eight months after the second appraisal report was prepared and signed.

failure to comply with the provisions of USPAP may be deemed to be professional misconduct. N.J.A.C. 13:40A-6.1(b). The Board herein finds that respondent's failure to comply with the requirements of Standards Rules 1-2(f) and 2-2(a)(x) of the USPAP constitutes professional misconduct and provides grounds for disciplinary sanction pursuant to both N.J.S.A. 45:1-21(e) and 45:1-21(h).

The parties desiring to resolve this matter without the necessity for further administrative proceedings, and the Board being satisfied that any need that might otherwise exist to conduct further proceedings is obviated by respondent's agreement to the entry of this Order, and the Board being satisfied that good cause exists for the entry of this Order,

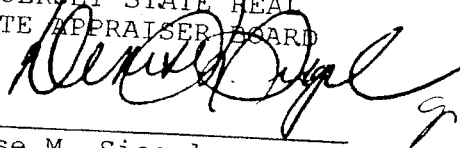
IT is on this 25<sup>th</sup> day of October, 2011

ORDERED and AGREED:

1. For the reasons set forth above, Respondent Helene Jacobson is hereby formally reprimanded for having engaged in professional misconduct.
2. Respondent is hereby assessed a civil penalty in the amount of \$10,000 for USPAP violations related to the second appraisal report (dated October 25, 2007). The penalty shall be payable in full upon entry of this Order.
3. Respondent is hereby assessed costs of investigation, limited to transcript costs, in the amount of \$240.50. The costs herein assessed shall be payable in full upon entry of this Order.
4. Respondent shall, within six months of the date of entry of this Order, take and successfully complete a 15 hour course

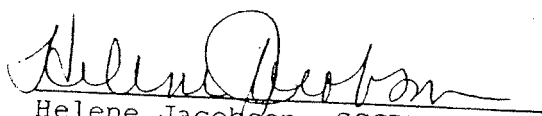
in the Uniform Standards of Professional Appraisal Practice. Respondent shall be required to secure pre-approval from the Board for any course she proposes to take to satisfy the requirements of this paragraph. The course shall be taken in a classroom setting (that is, the Board will not approve an "on-line" course). For purposes of this paragraph, "successfully complete" shall mean that respondent shall be required to pass the examination given at the end of the course and/or obtain a passing grade at the completion of the course. Respondent may not claim any continuing education credit for the completion of the course herein required.

NEW JERSEY STATE REAL  
ESTATE APPRAISER BOARD

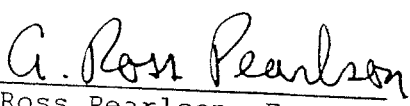


By: \_\_\_\_\_  
Denise M. Siegel  
Board President

I acknowledge that I have read and considered this Order, and agree to the entry of the Order as a matter of public record by the Board.

  
Helene Jacobson, SCGREA

Consent given to the form and entry of this Order.

  
A. Ross Pearlson, Esq.  
Counsel for Respondent