



**Private and Confidential**

June 30, 2011

**Letter of Reprimand Pursuant to Section 39 of the  
*Real Estate Act***

In accordance with section 39 of the *Real Estate Act*, R.S.A. 2000 c. R-5 (Act), the Executive Director of the Real Estate Council of Alberta (RECA) has determined that there is sufficient evidence of conduct deserving of sanction in regard to you[("the Industry Member")], at all material times, an Appraiser to issue a letter of reprimand. The evidence giving rise to the Executive Director's decision is as follows.

On or about October 2007, you reviewed and signed off on an appraisal prepared by R.M., Appraiser. R.M. required you to review and sign off on the following appraisals as he was not on the lenders approved appraiser list and you were.

On or about October 2007, R.M. authored appraisals for clients purchasing units located at 515 and 519 17 Ave SW, Calgary, AB.

At the time R.M. relied on information provided by the condominium's developer and did not take steps to verify the information.

Additionally R.M. did not provide adequate disclosure regarding the lack of verification for the comparables used in the reports.

The appraisal was completed and reviewed using the Canadian Uniform Standards of Professional Appraisal Practice.

According to the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) effective January 01, 2007, when choosing comparables, appraisers are to use "Reasonable Appraiser" standards which are defined as follows:

**5.4 Reasonable Appraiser [see 4.2.5]**

5.4.1 One who maintains a level of performance that would be acceptable to the Professional Practice Peer Group.

5.4.2 If reasonable appraisers conclude that there is no rational foundation for an analysis or opinion, then such analysis or opinion would not be justified.

If “Reasonable Appraiser” standards are used comparable choices can be made as follows:

### **7.16 Describe and Analyze** [see 6.2.15]

7.16.1 The appraiser must take reasonable steps to ensure that the information and analyses provided are sufficient for the client and intended users to adequately understand the rationale for the opinion and conclusions.

7.16.2 In the process of collecting and verifying relevant information the appraiser must perform this function in a manner consistent with “Reasonable Appraiser” standards. All three approaches require the collection of comparable data. The decision to inspect comparables and the extent of verification of data will be determined by the scope of the assignment, but in all cases the appraiser must conform to “Reasonable Appraiser” standards. [see 5.4, 7.5]

The Appraisal Institute of Canada (AIC) states, it is the appraiser’s responsibility to verify the comparables used in the appraisal:

### **7.5 Scope of Work** [see 12.17]

7.5.1 The amount and type of information researched and analysis applied. Scope includes, but is not limited to, the extent of:

7.5.1.i. inspection

7.5.1.ii. research into physical and economic factors that could affect the property [see 7.16]

7.5.1.iii. data research, verification, and inspection of comparables

7.5.1.iv. analysis applied

7.5.2 The scope of work applied must be sufficient to result in opinions/conclusions that are credible in the context of the intended use of the appraisal. The appraiser has the burden of proof to support the scope of work decision and the level of information included in a report

CUSPAP acknowledges that title searches should be conducted on properties to be used as comparables:

12.21.2 A title search will normally be required to reveal the legal attributes and restrictions that may affect property value. (See Extraordinary Limiting Conditions) For litigation support purposes, title searches should also be

conducted on properties used as comparables. A search is not intended to result in an expression of opinion as to the state of title itself. [see 7.10, 12.32]

According to section 12.28 of CUSPAP, the following is stated in regards to condominiums:

**12.28 Legal Attributes** [see 7.10.1.iii]

12.28.1 Members must be aware of the duty to investigate the legal attributes of certain property types. Condominium values, for example, can be affected by specific condominium bylaws that apply in some projects. The status of the reserve fund, special assessments for units in the complex and restrictions on common property can also influence values. While selecting sales from within the same complex can mitigate some of these concerns, particular care should be taken when it becomes necessary to rely on sales from outside of the complex.

As per AIC's published Case Summary 12, "an appraiser must exercise care to ensure that there is sufficient explanation and justification in the report and that the client and other intended users can understand the exclusion and not be misled by the resulting analysis" and "an appraiser should use all relevant information at his/her disposal to complete and appraisal report. Where the accuracy of the data provided by the client/property owner or other is questionable the appraiser should undertake to utilize independent reliable market data and other evidence that is representative of market conditions".

The Executive Director believes that this conduct is in contravention of Section 77 (2) (a) of the Rules made pursuant to the Act in affect at the relevant time which sets out that:

77 (2) An appraiser, when performing an appraisal assignment, must adhere to one of the following standards:

(a) Canadian Uniform Standards of Professional Appraisal Practice

The Executive Director believes that this is conduct deserving of sanction but also believes this matter can be dealt with by way of this Letter of Reprimand.

If you dispute this Letter of Reprimand, in accordance with section 40.1(2) of the Act, you may appeal it to a Hearing Panel. You will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel and make representations in relation to the contravention.

If you have any questions in regard to this Letter of Reprimand, please contact Corrie Olafson, Investigator at 403-228-2954.

**REAL ESTATE COUNCIL OF ALBERTA**

*Joseph Fernandez, for*

Bob Myroniuk  
Executive Director