

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE:

CAMILLA H. LATADY,
Chapter: 13

Case No:10-02606

Plaintiff

v.

Adv Proc. No: _____

REGIONS BANK,

Defendant.

**COMPLAINT TO AVOID JUNIOR MORTGAGE INTEREST IN REAL PROPERTY AND
FOR VALUATION OF DEBTOR'S RESIDENCE**

Camilla H. Latady ("Plaintiff"), by her attorney, Ronald F. Suber, states for her Complaint To Avoid Junior Mortgage Interest In Real Property and For Valuation of Debtor's Residence as to Second Mortgage Only as follows:

1. This is a complaint to avoid certain second lien and security interest held by Regions Bank ("Regions" or "Defendant") pursuant to 11 U.S.C. 506.
2. This Complaint is filed pursuant to 7001(2) and (9) of the Federal Rules of Bankruptcy.
3. This Court has jurisdiction in this adversary proceeding pursuant to 28 U.S.C. 157. This is a core proceeding under 28 U.S.C. 157.
4. On about June 7, 2010 Plaintiff filed a Voluntary Chapter 13 case with this court.
5. Plaintiff resides in and owns certain real property located at 365 Azalea St, Fairhope, AL 36532 ("Property"). The legal description for the Property is:
Lot 59, Block 4, Fairland Heights Subdivision, as recorded in map book 3, page 16, in the office of the Judge of Probate, Baldwin County, Alabama.
6. At the date of filing her Chapter 13 case, the Property had a fair market value of \$112,000. (See Appraisal attached hereto as **Exhibit 1**). In fact, the value of the Property is probably less than \$112,000 because of the further decline in market values since the date of the appraisal and the oil spill. (See Appraisal Bring Down Letter attached hereto as **Exhibit 2**).

7. The Property has two recorded mortgages held by Regions (See Claims 1 and 2 in the Claims Register in this case). The first mortgage is held by Regions Bank, d/b/a Regions Mortgage and successor in interest to Union Planters Bank, NA and has an outstanding balance of at least \$122,993.42 (See Claim 2 of Claims Register and Schedule D to Debtor's Petition in this case). The first mortgage was recorded July 30, 2004 as reflected on the copy of the mortgage attached to Claim 2 of the Claims Register.

8. The Second Mortgage is also held by Regions and has an outstanding balance of at least \$94,233.18 (See Claim 1 of the Claims Register and Schedule D to Debtor's Petition in this case). This Second Mortgage is shown in part as Exhibit B to Claim 1 of the Claims Register filed by Regions.

9. However, Debtor never borrowed funds secured solely by the second mortgage on the Property and, accordingly, Section 1322(b)(2) is not applicable to this case, and even if it is, 11th Circuit case law, and the law in practically every other circuit, allows a strip off of a wholly unsecured second mortgage on a debtor's principal residence. See In re Tanner, 217 F.3d 1357 (11th Cir 2000).

10. This second mortgage is unique in that it was originally part of a single commercial loan in the principal amount of \$196,200 given by Debtor to Regions to purchase two unimproved lots in Bayou La Batre, AL (the "Lots") more particularly described as:

Lots 26 and 29, Woodbridge Landing, according to the plat thereof recorded in Map Book 100, page 116 and revised in Map Book 103, Page 60, of the records in the Office of the Judge of Probate of Mobile County, Alabama.

11. The mortgage securing the Lots was recorded on July 7, 2005 in Real Property Book 5807, page 425 in the Office of the Judge of Probate of Mobile County, Alabama.

12. This mortgage on the Lots for the full \$196,200 is still in effect and, in fact, was used by Regions to obtain a lifting of the automatic stay in this case (See Motion For Relief from Stay appearing as Document no: 10 in this proceeding).

13. On or about December 14, 2007 Regions deemed itself insecure in that the \$196,200 commercial loan had matured and Regions didn't think the value of the Lots supported the entire balance of the commercial loan because of the devastation to the City of Bayou La Batre caused by Hurricane Katrina. Accordingly, it split the commercial loan into two loans, (a) a personal loan secured by the Second Mortgage on the Property (Debtor's principal residence) for \$97,798 (even though no new loan proceeds were loaned to Debtor) (and even though from all appearances Regions treated this home equity loan as a consumer loan with a credit limit of \$90,000) and (b) a reduced commercial loan of \$102,200. Each allegation contained in this paragraph is supported by Regions' own documents shown as Exhibit A to the Motion to Lift Automatic Stay filed as Document 10 in this bankruptcy proceeding.

14. Regions did not reduce the principal amount of the mortgage securing the Lots and kept that mortgage as a \$196,200 mortgage. Therefore, the commercial loan was, as of December 14, 2007 and as of the date of the filing of this petition, secured by

both the \$196,200 mortgage on the Lots and the second mortgage on the Property (Debtor's principal residence).

15. Equally important to any Section 1322(b)(2) analysis, the \$196,200 mortgage has a cross-collateralization clause making the Lots stand as security for all other debts of Debtor to Regions including the debt represented by the second mortgage on the Property (See page 1 of the Mortgage attached as part of Exhibit A to the Motion to Lift Automatic Stay filed as Document 10 in the bankruptcy case). Accordingly, because of this cross-collateralization clause alone, Section 1322(b)(2) is inapplicable to this Strip Off Adversary Proceeding because the debt secured by the second mortgage on the Property is not "a claim secured only by a security interest in real property that is the debtor's principal residence...."

16. Even if this Court finds that the cross-collateralization clause is ineffective to make section 1322(b)(2) completely inapplicable to this case, 11th Circuit Case law allows this strip off proceeding if there is no equity in the Debtor's Property (principal residence) to secure the second mortgage.

17. The First Mortgage is under collateralized as the Property is currently appraised at \$112,000.00, and is probably worth much less than \$112,000 (See Exhibits 1 and 2 to this Complaint). Since the balance of the first mortgage is at least \$122,993.42 (See Claim 2 of the Claims Register and Schedule D to Debtor's Petition), the second mortgage is wholly unsecured because no equity exists after application of the first mortgage.

18. To compound the problems of Regions, in order to qualify Debtor for the \$196,200 commercial loan on the Lots, Regions placed a \$0 under the heading "First Mortgage Payment" on the loan application for the commercial loan. Upon information and belief this was done so as not to violate the loan to value, debt to income and other applicable financing ratio's required by Regions loan regulations. If this had not been done Debtor would have never qualified for the large commercial loan in the first place and, accordingly, the loan would not have needed to be bifurcated resulting in a second mortgage on the Debtor's primary residence. Because of the aggressive lending practices of Regions, they can not come into this Court seeking protection of section 1322 or, as they state in their Objection to Chapter 13 Plan filed in this case, attempt to waive so much of the first mortgage as to give \$1.00 in equity to the second mortgage.

19. Because of the fact that the second mortgage was originally a commercial loan, because the full mortgage on the commercial loan of \$196,200 is still in effect (in addition to the second mortgage on the home of debtor) and because of the cross collateralization of the mortgage on the Lots, if this Court finds that the Property is worth more than the balance of the first mortgage, Debtor should be allowed to "strip down" (instead of strip off) the second mortgage to the actual amount secured by the second mortgage. This is because the debt secured by the second mortgage is also secured by the cross collateralization clause of the mortgage on the Lots so section 1322(b)(2) does not prevent a strip down action.

20. The Second Mortgage is wholly unsecured because no equity exists from the value to debt ratio of the senior lien(s) and value of the Property. Therefore, even if the Court gives no effect to the mortgage on the Lots and the fact that the second

mortgage was originally part of a commercial loan on unrelated property, the case of In re: Tanner cited above allows a strip off a wholly unsecured second mortgage on the debtor's principal residence.

21. The Property would have to be worth in excess of \$122,993.43 for Regions to have any security interest in the second mortgage.

22. Plaintiff is entitled to avoid the Second Mortgage only in the Property under the provisions of 11 U.S.C § 506, as Regions Second Mortgage is not an "allowed secured claim" as defined by the Code and applicable case law. Alternatively, if this Court finds that the Property is worth more than \$122,993.43, the Debtor should be allowed to strip down the second mortgage to the value of its secured claim since the second mortgage is not secured only by an interest in the Debtor's principal residence, since it has the benefit of the cross collateralization clause of the Lots Mortgage.

23. Therefore, Defendant's wholly unsecured Second Mortgage should be treated as an unsecured claim and paid as an unsecured creditor pursuant to Plaintiffs' Chapter 13 Plan of reorganization.

24. The interests of good faith and justice support the requested relief.

25. Plaintiff does not waive the provisions of Rule 26(a).

26. HAMP NOTIFICATION: REGIONS IS HEREBY PUT ON NOTICE THAT THE FIRST MORTGAGE IS CURRENTLY UNDER REVIEW FOR A HOME AFFORDABLE MORTGAGE PROGRAM (HAMP) MODIFICATION AND DEBTOR IS READY WILLING AND ABLE TO BEGIN HER TRIAL PERIOD UNDER HAMP BUT REGIONS HAS FAILED TO PROVIDE HER WITH A TRIAL PERIOD UNDER HAMP. INSTEAD REGIONS HAS THREATENED TO FILE A MOTION TO LIFT THE AUTOMATIC STAY ON THE FIRST MORTGAGE AND FORECLOSE ON THE PROPERTY UNLESS DEBTOR BEGINS MAKING HER FIRST MORTGAGE PAYMENTS. WHILE THIS IS A VIOLATION OF HAMP REGULATIONS, DEBTOR INTENDS TO BEGIN MAKING REGULAR FIRST MORTGAGE PAYMENTS SO LONG AS A THE HAMP TRIAL PERIOD BEGINS SOON. FAILURE TO PROVIDE THIS TRIAL PERIOD IS JEOPORDIZING DEBTOR'S CHAPTER 13 PLAN AND UNDER HAMP AMENDMENTS EFFECTIVE JUNE 1, 2010 BANKRUPTCY IS NO LONGER A REASON TO DENY A HAMP LOAN OR TRIAL PERIOD. WHILE DEBTOR HAS NO PRIVATE RIGHT OF ACTION UNDER HAMP, IT IS CLEAR THAT, UNDER ANY VALUATION OF THE PROPERTY, DEBTOR MEETS THE NET PRESENT VALUE TEST AND THUS QUALIFIES FOR A HAMP MODIFICATION. ANY FAILURE OF REGIONS TO PROVIDE THE TRIAL PERIOD ON AN EXPEDITED BASIS AND TO MODIFY THE FIRST MORTGAGE UNDER HAMP CAN BE ACTED UPON BY THE DEPARTMENT OF TRESURY. IN ADDITION, UNDER THE 2MP PROGRAM, ONCE THE FIRST MORTGAGE IS MODIFIED THE SECOND MORTGAGE (IF IT IS NOT STRIPPED IN THIS ACTION) MUST LIKEWISE BE AUTOMATICALLY MODIFIED.

WHEREFORE, Plaintiff requests that this court

(a) Grant Plaintiffs' requested relief to Avoid Junior Mortgage Interest in Real Property and Valuation of Debtor's Residence as to the Second Mortgage Only, and for any other relief this court deems equitable and just;

(b) If for any reason this Court finds that Regions has equity in the second mortgage, Debtor should be allowed to strip down the second mortgage equal to the amount of the secured claim represented by the second mortgage since Regions' claim represented by the second mortgage is also secured by the cross collateralization clause of the mortgage on the Lots and because the secured claim was originally part of the \$196,200 commercial loan (the mortgage on which in the full amount of \$196,200 is still outstanding) and was not, therefore, secured solely by Debtor's principal residence;

(c) The Plaintiff/Debtor also requests a declaratory judgment that Regions is prohibited from moving to lift the automatic stay on the first mortgage until Regions makes a determination whether the first mortgage is subject to a HAMP modification; and

(d) Plaintiff also requests of this Court a declaratory judgment that Regions is prohibited from moving to lift the automatic stay on the second mortgage during the pendency of this adversary proceeding and performance of Debtor's Chapter 13 plan. Alternatively, if Debtor is unsuccessful in this adversary proceeding, Regions should be prohibited from moving to lift the automatic stay on the second mortgage until consideration of a modification of the second mortgage under the 2MP program.

Respectfully submitted,

/s/ Ronald F. Suber
Ronald F Suber
PO Box 1287
Fairhope, AL 36533
(251) 209-3269
ronald.suber@att.net

CERTIFICATE OF SERVICE

I hereby certify that on the 10th of September, 2010, I served a true copy of this Adversary Proceeding on the following persons set forth below by first class regular mail, postage prepaid, and to their email addresses through the ECF system, and each of which has made an appearance on behalf of Regions Bank in this Action so that service in the foregoing manner is appropriate under Rule 7004(h)(1) of the Rules of Bankruptcy Procedure:

Jim H. Fernandez
PO Box 162
Mobile AL 36601

Bowdy J. Brown
PO Box 270
Montgomery, AL 36101

Susannah R. Walker
Sirote & Permutt
PO Box 55887
Birmingham, AL 35255

/s/ Ronald F. Suber
Ronald F. Suber

Borrower/Client	No Borrower - Market Opinion	File No. 3-Latady
Property Address	365 Azalea St	
City	Fairhope	County Baldwin
State	AL	Zip Code 36532
Lender	No lender/Client/Owner and attorney :: Camilla Latady	

APPRAISAL AND REPORT IDENTIFICATION

This Appraisal Report is one of the following types:

- Self Contained (A written report prepared under Standards Rule 2-2(a), pursuant to the Scope of Work, as disclosed elsewhere in this report.)
- Summary (A written report prepared under Standards Rule 2-2(b), pursuant to the Scope of Work, as disclosed elsewhere in this report.)
- Restricted Use (A written report prepared under Standards Rule 2-2(c), pursuant to the Scope of Work, as disclosed elsewhere in this report, restricted to the stated intended use by the specified client or intended user.)

Comments on Standards Rule 2-3

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

Comments on Appraisal and Report Identification

Note any USPAP related issues requiring disclosure and any state mandated requirements:

The purpose of this appraisal is for property valuation.


This appraisal was developed in accordance with The Uniform Standards of Professional Appraisal Practice (USPAP).

This appraisal is being reported as a "restricted appraisal report" in accordance with Standards Rule 2-2(B) of the Uniform Standards of Professional Appraisal Practice (USPAP).

This assignment was made subject to regulations of the State of Alabama Real Estate Appraisers Board. The undersigned state certified appraiser has met the requirements of the board that allow this appraisal to be regarded as a "certified appraisal".

The appraiser has made every effort to provide an accurate work product. All discrepancies should be brought to the attention of the appraiser within 90 days of the date of the appraisal. A party obtaining a copy of this appraisal report as a result of disclosure does not become an intended user of this report. The intended user of this report is the client named in this report. The effective date of this appraisal is the same date of inspection unless otherwise noted. I have no interest or prospective interest in the property that is subject of this report, and no personal interest with respect to the parties involved. I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment. Employment of the appraiser was not conditional upon the appraiser producing a specified value. Employment of the appraiser and payment of the fee is not based on whether a loan application is approved or disapproved. Future employment of the appraiser is not conditional upon the appraiser producing a specified value.

APPRAISER:

Signature: 

Name: Patricia Giovino Davis

Date Signed: _____

State Certification #: R00R05

or State License #: _____

State: AL

Expiration Date of Certification or License: 9/30/2011

Effective Date of Appraisal: April 20, 2009

SUPERVISORY APPRAISER (only if required):

Signature: _____

Name: _____

Date Signed: _____

State Certification #: _____

or State License #: _____

State: _____

Expiration Date of Certification or License: _____

Supervisory Appraiser Inspection of Subject Property:

Did Not Exterior-only from street Interior and Exterior

FIRREA / USPAP ADDENDUMBorrower/Client No Borrower/Market OpinionFile No. Azalea St 365Property Address 365 Azalea StCity FairhopeCounty BaldwinState ALZip Code 36532Lender Camilla H Latady**Purpose**

The purpose of this appraisal is to give an opinion of market value to the owner for her file

Scope of Work

The appraiser did a walk about interior and exterior inspection and interviewed the owner. A termite inspection and an inspection by a home inspector is suggested due to settlement of floor and possibly foundation. There are also areas on walls, ceilings, and small that need to be identified for possible mold or mildew which could be a problem in walls, but appraiser is not home inspector and notes damage and appraises subject improvements as average to fair condition due to these issues seen. Photos are included. Gross living area is from tax records site used is Delta Computer Systems. MLS site is used to collect gains and cost are per a study of files from contractors and suppliers to estimate a replacement cost of subject improvements. Site as vacant is estimated and cost approach developed.

Intended Use / Intended User

Intended Use: The owner and/or client Camilla Latady and she request a copy sent to Ron Suber, her legal advisor/attorney. For an estimate of market value on date of inspection which is same as effective date of this appraisal.

Intended User(s): Camilla Latady and Ron Suber**History of Property**Current listing information: Not listed for sale in the past year per ownerPrior sale: None in over three years per records and owner.**Exposure Time / Marketing Time**

Typically six months to a year in todays market

Personal (non-realty) Transfers

None included

Additional Comments

See appraisal and photos

Certification Supplement

1. This appraisal assignment was not based on a requested minimum valuation, a specific valuation, or an approval of a loan.
2. My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event.

Appraiser: Patricia Giovino DavisSigned Date: April 20, 2009Certification or License #: R00805Certification or License State: AL Expires: 9/30/2011Effective Date of Appraisal: April 20, 2009

Supervisory

Appraiser:

Signed Date:

Certification or License #:

Certification or License State:

Expires:

Inspection of Subject: Did Not Exterior Only Interior and Exterior

UNIFORM RESIDENTIAL APPRAISAL REPORT

J-Latady

File No. Azalea St 365

Property Description

Property Address 365 Azalea St City Fairhope State AL Zip Code 36532
Legal Description LOT 50 BLK 4 FAIRLAND HEIGHTS SUB PD3PG16 CITY OF FAIRHOPE GRSEC47 County Baldwin
Assessor's Parcel No. 05-46-03-37-0-015-072,000 Tax Year 2009 R.E. Taxes \$ 622.30 Special Assessments \$ Unk. Sewer Title

MARKET

Borrower No Borrower/Mortgage Opinion Current Owner Camilla H Latady Occupant Owner Tenant Vacant
Property rights appraised Fine Simple Leasehold Project Type PUD Condominium (HUD/VA only) HOA \$ /Mo
Neighborhood or Project Name Fairhope market C Map Reference GR SEC 47-T6S-R2E Census Tract 113
Sale Price \$ N/A Date of Sale N/A Description and \$ amount of loan charges/concessions to be paid by seller N/A

APPRaiser

Lender/Client Camilla H Latady Address 365 Azalea St, Fairhope, AL 36532
Appraiser Patricia Giovino Davis Address PO BOX 173, Fairhope, AL 36533

LOCATION

Location Urban Suburban Rural
Build up Over 75% 25-75% Under 25%
Growth rate Rapid Stable Slow
Property values Increasing Stable Declining
Demand/Supply Shortage In balance Over supply
Marketing time Under 3 mos 3-6 mos Over 6 mos

NEIGHBORHOOD

Note: Race and the racial composition of the neighborhood are not appraisal factors.
Neighborhood boundaries and characteristics: The subject neighborhood is a part of Fairhope that is East of prime urban downtown which is West of Hwy 90 so considered urban but not in Fruit and Nut district.
Factors that affect the marketability of the properties in the neighborhood (proximity to employment and amenities, employment stability, appeal to market, etc.):
The subject is located in an area that is convenient to employment, schools, a hospital, and restaurants by Hwy 90
The main interstate makes it convenient to employment in Mobile County and Baldwin County.
Manufactured Homes are not typical in the immediate market area. There are very diversified market areas within downtown Fairhope. There are newer homes constructed where homes are torn down and have little or no value since there is a limited supply of vacant lots in downtown Fairhope.

PROJECT

Market conditions in the subject neighborhood (including support for the above conclusions related to the trend of property values, demand/supply, and marketing time -- such as data on competitive properties for sale in the neighborhood, description of the prevalence of sales and financing concessions, etc.):
Market conditions at the time of this appraisal appear to be average. Supply and Demand is affected where older homes are torn down since there is a limited supply of vacant lots, but recent market declines have made a supply of improved property increase with a new lower stable market price. A decline is possible since there are still foreclosures seen in this area. Financing is available with low interest rates but harder to obtain than is recent past with lower concessions paid by seller due to new guidelines by lenders. Unpredictable market conditions since so many changes in insurance and financing determine the stability in addition to supply and demand.

UTILITIES

Project information for PUDs (if applicable) -- is the developer/builder in control of the Home Owners' Association (HOA)? Yes No
Approximate total number of units in the subject project N/A Approximate total number of units for sale in the subject project
Describe common elements and recreational facilities:
Dimensions 66' x 132' per legal description
Site area <0.25 ac +/- Corner Lot Yes No
Specific zoning classification and description R-2 Tax District 06 Residential per Tax Records
Zoning compliance Legal Legal nonconforming (Grandfathered use) Illegal No zoning
Highest & best use as known Present use Other use (explain)
Utilities Public Other Off-site Improvements Type Public Private
Electricity Street
Gas Curbs/gutter
Water Sidewalk
Sanitary sewer Street lights
Storm sewer Alley
Topography Mostly level
Size <0.25 Ac +/-
Shape rectangular
Drainage appears average
View RESIDENTIAL
Landscaping Average
Driveway Surface Asphalt
Apparent easements Typical City Street
FEMA Special Flood Hazard Area Yes No
FEMA Zone X Map Date 6/17/2002
FEMA Map No. 01003C0175K
Comments (apparent adverse easements, encroachments, special assessments, slide areas, illegal or legal nonconforming zoning use, etc.): No adverse conditions known to appraiser. Plat appears to show typical access to public city street

GENERAL DESCRIPTION

GENERAL DESCRIPTION EXTERIOR DESCRIPTION FOUNDATION BASEMENT INSULATION
No. of Units 1 Foundation CM wall Slab No Area Sq. Ft. N/A Roof
No. of Stories One Exterior Walls VSiding Crawl Space yes % Finished Ceiling
Type (Det./Att.) Detached Roof Surface Comp Shingle Basement No Ceiling
Design (Style) Cottage Gutters & Dwnspnts. None noted Sump Pump None noted Walls
Existing/Proposed Existing Window Type Single Pane Dampness None Noted Floor
Age (Yrs.) 55 Storm/Screens Back-damaged Settlement Yes None
Effective Age (Yrs.) 55 of 70 TEL Manufactured House No Infestation Possibl Outside Entry Unknown

ROOMS

Table with columns: Rooms (Foyer, Living, Dining, Kitchen, One, Family Rm, Rec. Rm, Bedrooms, # Baths, Laundry, Other, Area Sq. Ft.) and rows for Basement, Level 1, Level 2.

FINISHED AREA ABOVE GRADE CONTAINS

FINISHED AREA ABOVE GRADE CONTAINS: 0 Rooms; 2 Bedroom(s); 1.1 Bath(s); 1,368 Square Feet of Gross Living Area
INTERIOR Materials/Condition HEATING Type FHA KITCHEN EQUIP. Refrigerator None ATTIC None
Floors carpet/stick tile Type FHA Range/Oven Drop Stair Fireplaces #
Walls Drywall Condition dated Disposal Dishwasher Scuttle Deck
Trim/Finish Average Central Yes Fan/Hood Floor
Bath Floor Stick Vinyl tile COOLING Other Microwave Heated
Bath Wainscot Tilt Condition UNK Washer/Dryer Finished
Doors Wood-back storm door needs to be replaced

ADDITIONAL FEATURES

Additional features (special energy efficient items, etc.): None and garage door damaged so Garage used for storage mostly and house and garage in average to fair condition due to possible settlement and mildew or mold seen in house. Need home and termite inspection.
Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction, remodeling/additions, etc.: The house would probably be torn down or remodeled if sold. There appears to be settlement of foundation, appears to have leaks in roof with damage to drywall and mildew or mold in 1/2 bath, laundry closet, and small of the same in study where carpet prevents view of subfloor. Construction in average low cost. Heat and Cooling unit may have leaked into walls and ceiling. Termite inspection suggested.
Adverse environmental conditions (such as, but not limited to, hazardous wastes, toxic substances, etc.) present in the improvements, on the site, or in the immediate vicinity of the subject property: See addendum. Appraiser makes no claims to condition and suggest home inspection and termite inspection of this home.

COMMENTS

Additional features (special energy efficient items, etc.): None and garage door damaged so Garage used for storage mostly and house and garage in average to fair condition due to possible settlement and mildew or mold seen in house. Need home and termite inspection.
Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction, remodeling/additions, etc.: The house would probably be torn down or remodeled if sold. There appears to be settlement of foundation, appears to have leaks in roof with damage to drywall and mildew or mold in 1/2 bath, laundry closet, and small of the same in study where carpet prevents view of subfloor. Construction in average low cost. Heat and Cooling unit may have leaked into walls and ceiling. Termite inspection suggested.
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UNIFORM RESIDENTIAL APPRAISAL REPORT

Valuation Section

ESTIMATED SITE VALUE		= \$	65,000	Comments on Cost Approach (such as, source of cost estimate, site value, square foot calculation and for HUD, VA and FmHA, the estimated remaining economic life of the property); Cost was estimated from data collected from local builders and suppliers. The site value was estimated by reviewing vacant site sales in the subject area over the past year and abstraction method. The Age/Life Method was used. The REL (remaining economic life) of the subject is 5 years with a total life expectancy of 60 years. The gross living area is per tax records and condition assumed for appraisal in per inspection of walk through and notes made to indicate that an inspection by home inspector and termite inspector needed due to average to fair condition noted	
ESTIMATED REPRODUCTION COST-NEW-OF IMPROVEMENTS:					
Dwelling	1,368 Sq. Ft. @ \$ 78.00	= \$	108,704		
	Sq. Ft. @ \$	=			
Garage/Carport	396 Sq. Ft. @ \$ 28.00	=	11,088		
Total Estimated Cost New		= \$	117,792		
Less	Physical	Functional	External		
Depreciation	107,980				
Depreciated Value of Improvements		= \$	0,812		
*As-is Value of Site Improvements		= \$	20,000		
INDICATED VALUE BY COST APPROACH				= \$	94,812

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	305 Azalea St Fairhope, AL 36532	402 Dogwood Ave Fairhope, AL 36532	415 Fairland Blvd Fairhope, AL 36532	407 Azalea St Fairhope, AL 36532
Proximity to Subject		0.10 miles SW	0.16 miles S	0.09 miles S
Sales Price	\$ N/A	\$ 115,000	\$ 125,000	\$ 125,000
Price/Gross Living Area	\$	\$ 150.72	\$ 98.07	\$ 113.64
Data and/or Verification Source	N/A Dated 2004	MLS 133581 DOM 143	MLS 134848 DOM 166	MLS 134752 DOM 362
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION +(-)\$ Adjust.	DESCRIPTION +(-)\$ Adjust.	DESCRIPTION +(-)\$ Adjust.
Sales or Financing Concessions		Cash None Indicated	Cash None Indicated	Conventional None Indicated
Date of Sale/Time		8/15/2008	10/3/2008	4/16/2008
Location	Urban	Urban	Urban	Urban
Leasehold/Free Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Site	<0.25 ac+/-	<0.50 ac+/-	<0.25 ac+/-	<0.25 ac+/-
View	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL
Design and Appeal	Cottage	Cottage	Cottage	Cottage
Quality of Construction	Average	Average	Average	Average
Age	55	55	58	55
Condition	Avg to Fair	Good -10,000	Good -10,000	Good -10,000
Above Grade Room Count	Total : Bdrms : Baths 6 : 2 : 1.1	Total : Bdrms : Baths 5 : 2 : 1	Total : Bdrms : Baths 7 : 2 : 1	Total : Bdrms : Baths 5 : 2 : 1
Gross Living Area	1,368 Sq. Ft. +6,500	720 Sq. Ft.	1,263 Sq. Ft. +1,100	1,100 Sq. Ft. +2,700
Basement & Finished Rooms Below Grade	N/A 0	N/A 0	N/A 0	N/A 0
Functional Utility	Average	Average	Average	Average
Heating/Cooling	Central	Central	Central	Central
Energy Efficient Items	Average	Average	Average	Average
Garage/Carport	Detached Car	Carport	Garage	None +500
Porch, Patio, Deck, Fireplaces, etc.	Porch No	Porch No	Porch Fireplace -500	Open Porch No
Fence, Pool, etc.	Some Fence	Fence	Storage/Fence	None
Net Adj. (total)		+ \$ -3,000	+ \$ -8,000	+ \$ -6,300
Adjusted Sales Price of Comparable		\$ 112,000	\$ 116,100	\$ 118,700

Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.): The subject is in an area that is not part of the fruit and nut section of Fairhope which is a higher value, but the lower values are typical for this area of Fairhope. The sales are similar to the subject in location which is the main factor of Fairhope and in age style and construction. The condition of the subject is average to fair depending on an inspection suggested by appraiser for possible water damage and possible mold/mildew. See photos and settlement of subfloor seen in living room to laundry closet and living room to den possible water damage in wall due to roof leak and water leak in heat and air unit vent area and damage between walls is suspected.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Date, Price and Data Source, for prior sales within year of appraisal	None seen in 3 years per records	None found in one year	None found in one year	None found in one year

Analysis of any current agreement of sale, option, or listing of subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal: NO sales or listing per owner and records search

INDICATED VALUE BY SALES COMPARISON APPROACH

INDICATED VALUE BY INCOME APPROACH (if Applicable) Estimated Market Rent \$ /Mo. x Gross Rent Multiplier = \$ 112,000

This appraisal is made "as is" subject to the repairs, alterations, inspections or conditions listed below subject to completion per plans & specifications.

Conditions of Appraisal: This appraisal is made "as is" on the effective appraisal date. The appraiser's fee was not based on a certain value estimate being obtained.

Final Reconciliation: Cost Approach and the Sales Comparison Approach were developed in the valuation process. The Sales Comparison Approach is the best indicator of value. The Income Approach was not developed due to it is not applicable to this appraisal assignment and subject is in primarily owner occupied area.

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 439/FNMA form 1004B (Revised 08/93).

(WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF April 20, 2009

(WHICH IS THE DATE OF INSPECTION AND THE EFFECTIVE DATE OF THIS REPORT) TO BE \$ 112,000

APPRaiser: Signature: *[Signature]* SUPERVISORY APPRAISER (ONLY IF REQUIRED): Signature: Did Did Not

Name: Patricia Giovino Davis Name: Inspect Property

Date Report Signed: April 22, 2009 Date Report Signed:

State Certification # R00805 State AL State Certification # State

Or State License # Or State License # State

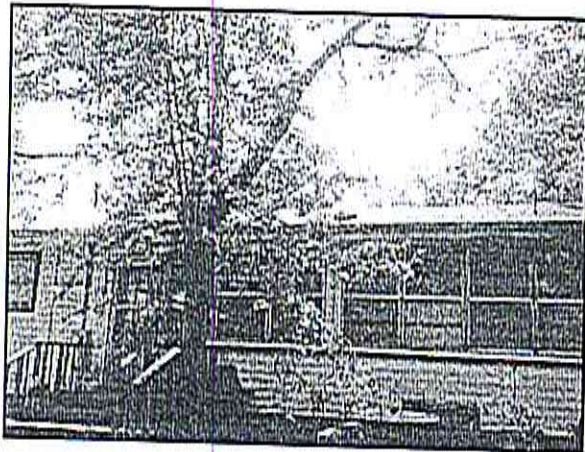
Subject Photo Page

Borrower/Client	No Borrower/Market Opinion				
Property Address	365 Azalea St				
City	Fairhope	County	Baldwin	State	AL
Lender	Camilla H Latady	Zip Code	36532		

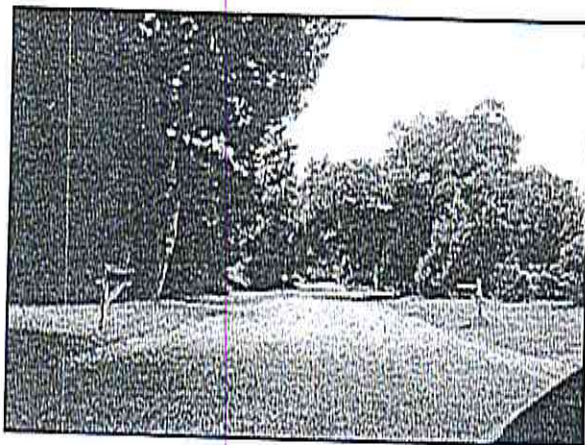


Subject Front

365 Azalea St
Sales Price N/A
Gross Living Area 1,368
Total Rooms 6
Total Bedrooms 2
Total Bathrooms 1.1
Location Urban
View RESIDENTIAL
Site <0.25 ac+/-
Quality Average
Age 55



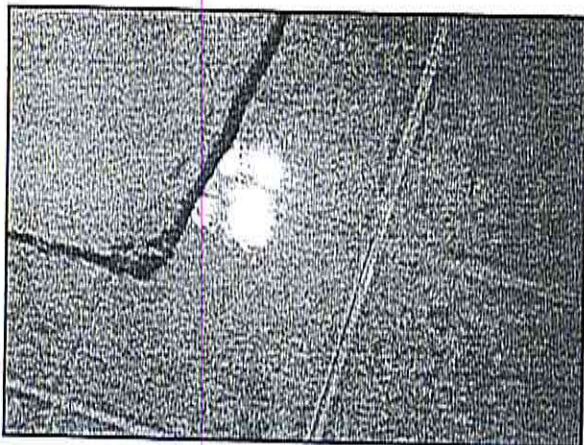
Subject Rear



Subject Street

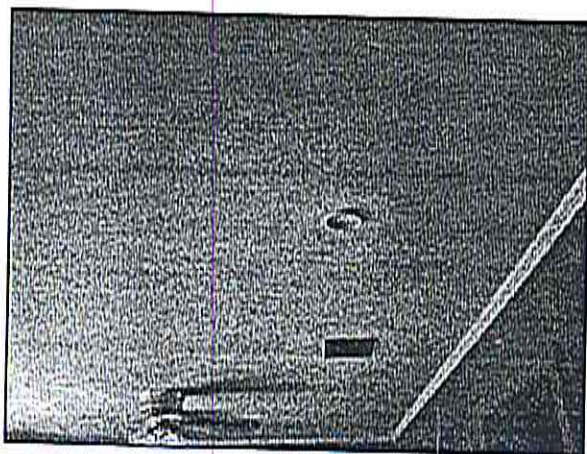
Subject Interior Photo Page

Borrower/Client	No Borrower/Market Opinion				
Property Address	365 Azalea St				
City	Prichard	County	Baldwin	State	AL
Lender	Carmilla H Latady	Zip Code	36532		

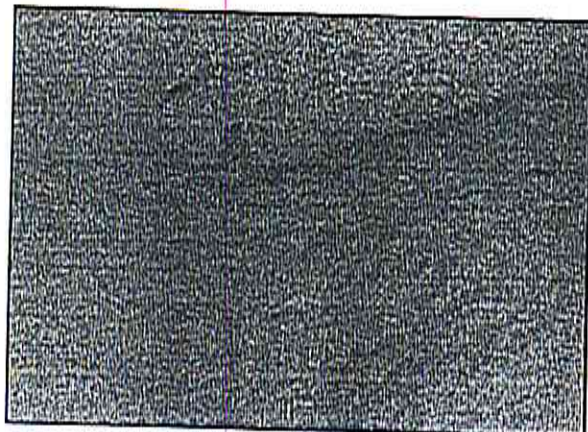


Subject Interior

365 Azalea St
 Sales Price N/A
 Gross Living Area 1,368
 Total Rooms 6
 Total Bedrooms 2
 Total Bathrooms 1,1
 Location Urban
 View RESIDENTIAL
 Site <0.25 ac+/-
 Quality Average
 Age 55



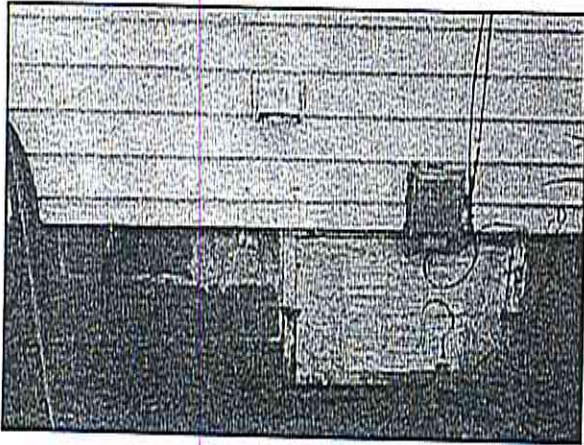
Subject Interior



Subject Interior

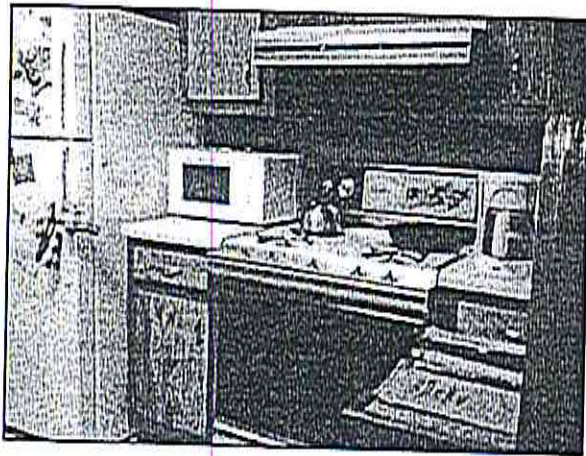
Subject Interior Photo Page

Borrower/Client	No Borrower/Market Opinion				
Property Address	365 Azalea St				
City	Fairhope	County	Baldwin	State	AL
Lender	Camilla H Lalarly	Zip Code	36532		

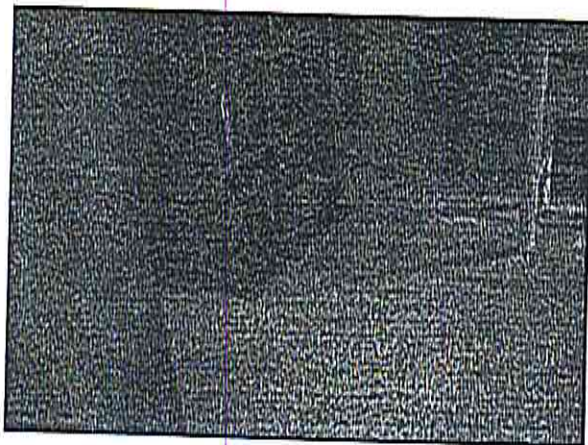


Subject Interior

365 Azalea St
Sales Price N/A
Gross Living Area 1,368
Total Rooms 6
Total Bedrooms 2
Total Bathrooms 1.1
Location Urban
View RESIDENTIAL
Site <0.25 ac+/-
Quality Average
Age 55



Subject Interior



Subject Interior

ENVIRONMENTAL ADDENDUM

APPARENT* HAZARDOUS SUBSTANCES AND/OR DETRIMENTAL ENVIRONMENTAL CONDITIONS

Borrower/Client	No Borrower/Market Opinion				
Address	305 Azalea St				
City	Enterprise	County	Baldwin	State	AL
Lender	Carmilla H Lutady				
				Zip code	36532

* Apparent is defined as that which is visible, obvious, evident or manifest to the appraiser.

This universal Environmental Addendum is for use with any real estate appraisal. Only the statements which have been checked by the appraiser apply to the property being appraised.

This addendum reports the results of the appraiser's routine inspection of and inquiries about the subject property and its surrounding area. It also states what assumptions were made about the existence (or nonexistence) of any hazardous substances and/or detrimental environmental conditions. The appraiser is not an expert environmental inspector and therefore might be unaware of existing hazardous substances and/or detrimental environmental conditions which may have a negative effect on the safety and value of the property. It is possible that tests and inspections made by a qualified environmental inspector would reveal the existence of hazardous materials and/or detrimental environmental conditions on or around the property that would negatively affect its safety and value.

DRINKING WATER

- Drinking Water is supplied to the subject from a municipal water supply which is considered safe. However the only way to be absolutely certain that the water meets published standards is to have it tested at all discharge points.
- Drinking Water is supplied by a well or other non-municipal source. It is recommended that tests be made to be certain that the property is supplied with adequate pure water.
- Lead can get into drinking water from its source, the pipes, at all discharge points, plumbing fixtures and/or appliances. The only way to be certain that water does not contain an unacceptable lead level is to have it tested at all discharge points.
- The value estimated in this appraisal is based on the assumption that there is an adequate supply of safe, lead-free Drinking Water.

Comments _____

SANITARY WASTE DISPOSAL

- Sanitary Waste is removed from the property by a municipal sewer system.
- Sanitary Waste is disposed of by a septic system or other sanitary on site waste disposal system. The only way to determine that the disposal system is adequate and in good working condition is to have it inspected by a qualified inspector.
- The value estimated in this appraisal is based on the assumption that the Sanitary Waste is disposed of by a municipal sewer or an adequate properly permitted alternate treatment system in good condition.

Comments _____

SOIL CONTAMINANTS

- There are no apparent signs of Soil Contaminants on or near the subject property (except as reported in Comments below). It is possible that research, inspection and testing by a qualified environmental inspector would reveal existing and/or potential hazardous substances and/or detrimental environmental conditions on or around the property that would negatively affect its safety and value.
- The value estimated in this appraisal is based on the assumption that the subject property is free of Soil Contaminants.

Comments _____

ASBESTOS

- All or part of the improvements were constructed before 1979 when Asbestos was a common building material. The only way to be certain that the property is free of friable and non-friable Asbestos is to have it inspected and tested by a qualified asbestos inspector.
- The improvements were constructed after 1979. No apparent friable Asbestos was observed (except as reported in Comments below).
- The value estimated in this appraisal is based on the assumption that there is no uncontained friable Asbestos or other hazardous Asbestos material on the property.

Comments and part manufactured home construction units inside

PCBs (POLYCHLORINATED BIPHENYLS)

- There were no apparent leaking fluorescent light ballasts, capacitors or transformers anywhere on or nearby the property (except as reported in Comments below).
- There was no apparent visible or documented evidence known to the appraiser of soil or groundwater contamination from PCBs anywhere on the property (except as reported in Comments below).
- The value estimated in this appraisal is based on the assumption that there are no uncontained PCBs on or nearby the property.

Comments _____

RADON

- The appraiser is not aware of any Radon tests made on the subject property within the past 12 months (except as reported in Comments below).
- The appraiser is not aware of any indication that the local water supplies have been found to have elevated levels of Radon or Radium.
- The appraiser is not aware of any nearby properties (except as reported in Comments below) that were or currently are used for uranium, thorium or radium extraction or phosphate processing.
- The value estimated in this appraisal is based on the assumption that the Radon level is at or below EPA recommended levels.

Comments _____

USTs (UNDERGROUND STORAGE TANKS)

- There is no apparent visible or documented evidence known to the appraiser of any USTs on the property nor any known historical use of the property that would likely have had USTs.
- There are no apparent petroleum storage and/or delivery facilities (including gasoline stations or chemical manufacturing plants) located on adjacent properties (except as reported in Comments below).
- There are apparent signs of USTs existing now or in the past on the subject property. It is recommended that an inspection by a qualified UST inspector be obtained to determine the location of any USTs together with their condition and proper registration if they are active; and if they are inactive, to determine whether they were deactivated in accordance with sound industry practices.
- The value estimated in this appraisal is based on the assumption that any functioning USTs are not leaking and are properly registered and that any abandoned USTs are free from contamination and were properly drained, filled and sealed.

Comments _____

NEARBY HAZARDOUS WASTE SITES

- There are no apparent Hazardous Waste Sites on the subject property or nearby the subject property (except as reported in Comments below). Hazardous Waste Site search by a trained environmental engineer may determine that there is one or more Hazardous Waste Sites on or in the area of the subject property.
- The value estimated in this appraisal is based on the assumption that there are no Hazardous Waste Sites on or nearby the subject property that negatively affect the value or safety of the property.

Comments _____

UREA FORMALDEHYDE (UFFI) INSULATION

- All or part of the improvements were constructed before 1982 when UREA foam insulation was a common building material. The only way to be certain that the property is free of UREA formaldehyde is to have it inspected by a qualified UREA formaldehyde inspector.
- The improvements were constructed after 1982. No apparent UREA formaldehyde materials were observed (except as reported in Comments below).
- The value estimated in this appraisal is based on the assumption that there is no significant UFFI insulation or other UREA formaldehyde material on the property.

Comments _____

LEAD PAINT

- All or part of the improvements were constructed before 1980 when Lead Paint was a common building material. There is no apparent visible or known documented evidence of peeling or flaking Lead Paint on the floors, walls or ceilings (except as reported in Comments below). The only way to be certain that the property is free of surface or subsurface Lead Paint is to have it inspected by a qualified inspector.
- The improvements were constructed after 1980. No apparent Lead Paint was observed (except as reported in Comments below).
- The value estimated in this appraisal is based on the assumption that there is no flaking or peeling Lead Paint on the property.

Comments _____

AIR POLLUTION

- There are no apparent signs of Air Pollution at the time of the inspection nor were any reported (except as reported in Comments below). The only way to be certain that the air is free of pollution is to have it tested.
- The value estimated in this appraisal is based on the assumption that the property is free of Air Pollution.

Comments There is a small similar to mildew so appraiser suggests a home inspection and mold inspection

WETLANDS/FLOOD PLAINS

- The site does not contain any apparent Wetlands/Flood Plains (except as reported in Comments below). The only way to be certain that the site is free of Wetlands/Flood Plains is to have it inspected by a qualified environmental professional.
- The value estimated in this appraisal is based on the assumption that there are no Wetlands/Flood Plains on the property (except as reported in Comments below).

Comments _____

MISCELLANEOUS ENVIRONMENTAL HAZARDS

- There are no other apparent miscellaneous hazardous substances and/or detrimental environmental conditions on or in the area of the site except as indicated below:
 - Excess Noise _____
 - Radiation + Electromagnetic Radiation _____
 - Light Pollution _____
 - Waste Heat _____
 - Acid Mine Drainage _____
 - Agricultural Pollution _____
 - Geological Hazards _____
 - Nearby Hazardous Property _____
 - Infectious Medical Wastes _____
 - Pesticides _____
 - Others (Chemical Storage + Storage Drums, Pipelines, etc.) _____

- The value estimated in this appraisal is based on the assumption that there are no Miscellaneous environmental Hazards (except those reported above) that would negatively affect the value of the property.

When any of the environmental assumptions made in this addendum are not correct, the estimated value in this appraisal may not be valid.

Location Map

Borrower/Client	No Borrower/Market Opinion						
Property Address	365 Azalea St						
City	Fairhope	County	Baldwin	State	AL	Zip Code	36532
Lender	Camilla H Latady						

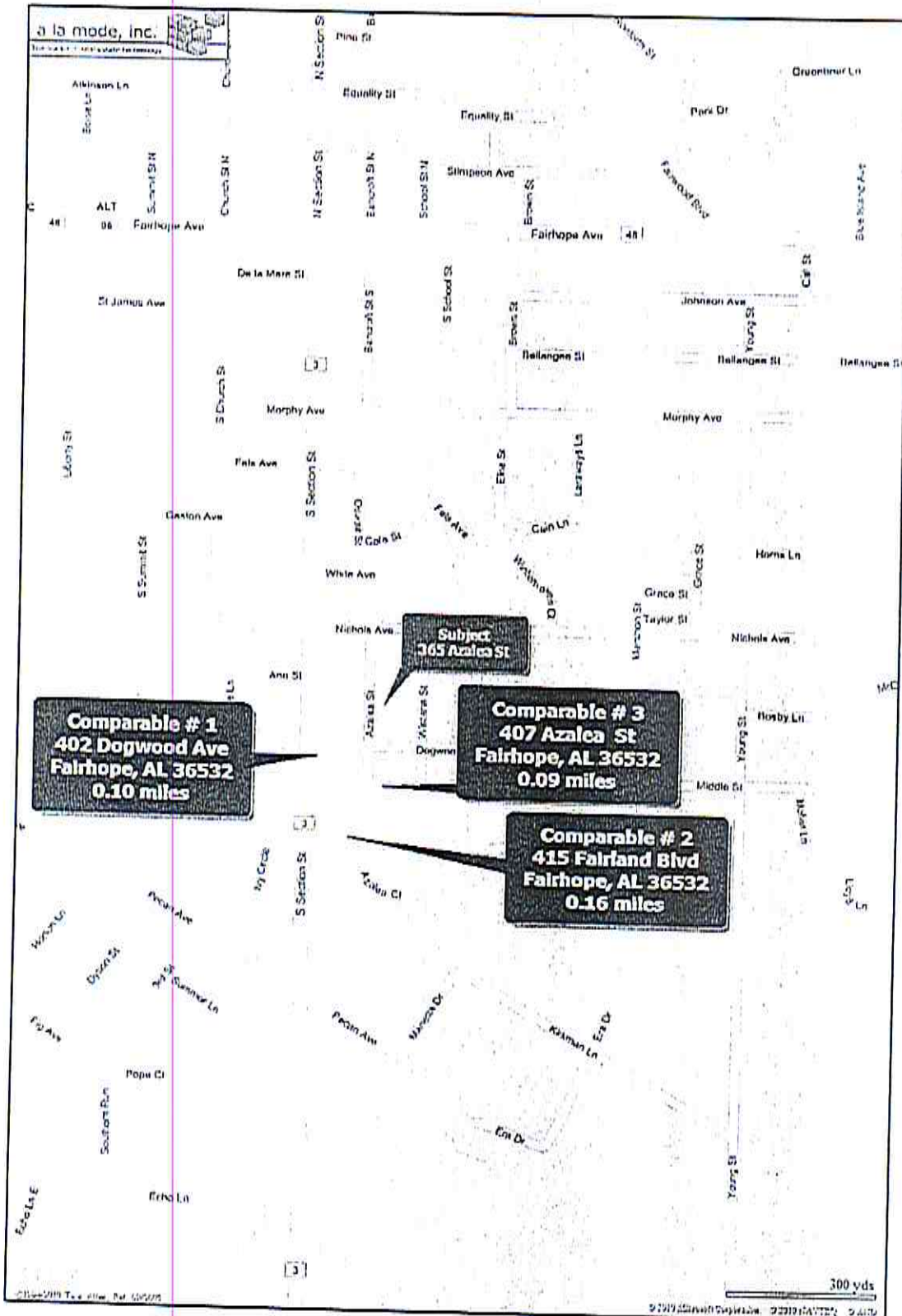


EXHIBIT 2

Ronald F. Suber
Attorney at Law
PO Box 1297
Fairhope, AL 36533

July 20, 2010

Dear Ronald Suber,

I have inspected the property location 365 Azalea St, Fairhope, AL 36532 for an appraisal on April 20, 2009 and estimated the market value in my opinion to be 112,000 based on an analysis of sales and listing information collected and a reviewed for subject property. The value today has remained the same or declined if the home inspection or environmental inspection indicates worse than average to fair condition as appraised. The subject is not FST and is not located in the Fruit and Nut section of Fairhope. I have worked on market neighborhoods in this area for over twenty years. I call this area, Market C. Boundaries are: from West boundary line of Section Street go East and other boundaries of market neighborhood are Parker to the North and Pecan to the South. There is a decrease seen since January 2010 for parts of Baldwin County due to so many foreclosures and owners selling out cheap to prevent foreclosure.

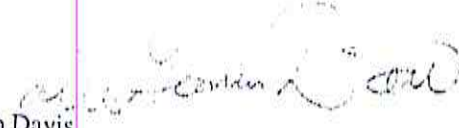
In addition, the oil spill on April 20, 2010, one year from the date of my first appraisal of the subject, has created a strong economic problem for Baldwin County and is expected to cause decreases in value in today's market. On July 17-18, 2010, BP claimed to have capped the well then turned cameras off to site underwater. There are professors saying it is still gushing oil at bottom of cap and so many disputes in relation to effects and condition of our waterways that add to the unpredictable market being experienced for the first time in history.

Furthermore, the subject residential structure already has issues that need to be inspected by an environmental inspector due to water damage and suspicious stains that may possibly be mold/mildew or worse. The wall between kitchen and Den shows a slope of settlement in floor and wall could have water damage and/or termites.

There are some sales in my file for 2010 on average to fair condition homes with sales from 91,000 to subject's estimated value of 112,000, making me feel the subject is decreasing in value "as is" condition. Most homes this old are torn down and the property is sold for the lot which adds to demolition cost and makes for negotiation of lot sale. Builders are not getting loans as readily and many are losing their own home in today's market so I have not seen good activity nor market conditions in over three years to cause any type of increase in the subject property, but decrease is obvious.

I have an appraiser's work file with more information on market conditions and lists of sales and property for. If you would like to review this information, please let me know a good time to meet you at your office in Fairhope or give me a call anytime.

Best Regards,


Patricia Giovino Davis
Appraisers of Baldwin/Mobile
PO Box 173
Fairhope, AL 36533
251-367-1500
Email: Appraiser@gulftel.com