

CITY OF NATCHITOCHEs



COMPLIANCE AUDIT

ISSUED SEPTEMBER 19, 2007

**LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

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STEVE J. THERIOT, CPA
LEGISLATIVE AUDITOR

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LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

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September 19, 2007

The Honorable Wayne McCullen, Mayor,
and Members of the Council
City of Natchitoches
Post Office Box 37
Natchitoches, Louisiana 71458

Dear Mayor McCullen:

We have audited certain transactions of the City of Natchitoches (City) for the period beginning December 1, 2004, and ending January 30, 2007. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of a certain allegation regarding the valuation of a specified parcel of land acquired by the City. Our audit also included a review of all appraisals paid for by the City from December 1, 1997, through January 30, 2007.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required of an audit by *Government Auditing Standards* in our examination of the City's financial records; therefore, we are not offering an opinion on the City's financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The concerns and results of our audit are listed below for your consideration.

On December 24, 2004, the City entered into a \$40,000 "option to purchase" contract to purchase a certain parcel of land in downtown Natchitoches for \$310,000 from Calvin and Peggy Braxton (Braxton). This land was to be donated by the City to the State of Louisiana as the future site of the Louisiana Sports Hall of Fame Museum (Museum). On January 11, 2005, the City made the first option payment of \$16,000. The balance owed (\$24,000) was paid in installments of \$2,000 each month for one year.

On December 3, 2004, Mr. C. E. Dranguet of Dranguet's Appraisal Service, LLC, appraised the value of the Braxton's property at \$175,000. On January 5, 2005, after signing the option contract but before exercising it, the City received an appraisal report from Mr. Dranguet (the City's appraiser) which valued the land at \$320,000. As required by the contract, this subsequent appraisal conducted on the property for the City must have rendered a value of at least \$310,000 for the option to be a valid contract. According to the mayor, City management had no knowledge of the appraisal report prepared for the Braxton's before it entered into the option contract.

On November 17, 2006, the City exercised the option and purchased this parcel of land for \$310,000 (\$299,350.37 plus the seller's settlement costs of \$10,649.63). In total, the City paid the landowner \$350,000 for the parcel of land.

Both appraisal reports were based on the "comparative market value approach" to valuing the property's fair market value. Mr. Dranguet indicated the appraised value of the land changed because the intended use of the appraisal report changed. According to Mr. Dranguet, the Braxton's requested the appraisal for estate planning purposes, while the City requested an appraisal to determine a reasonable purchase price for the land. However, Mr. Braxton stated that he requested the appraisal to determine his net worth, not for estate planning purposes. Also, according to a representative of the Louisiana Real Estate Appraisers Board (LREAB), the intended use of the appraisal report should not affect the appraised value of the property, and furthermore, the LREAB does not recognize appraised values based on estate planning.

From December 1997 to January 2007, the City paid Mr. Dranguet \$32,125 to appraise approximately 33 properties. Of the 33 appraisals, Mr. Dranguet was not properly licensed to conduct 10 of these appraisals, including the appraisal conducted on the land acquired for the Museum. The City paid Mr. Dranguet \$11,600 for appraisal services rendered on the 10 appraisals.

According to the LREAB, Mr. Dranguet has possessed a certified residential appraiser's license for the past 13 years. As defined by Louisiana law,¹ a residential appraiser's capacity to appraise non-residential real estate is limited to real estate valued at \$250,000 or less. However, Mr. Dranguet appraised 10 properties for the City that were non-residential properties valued above \$250,000. All examined appraisal reports submitted to the City included a page titled "Qualifications of Appraiser," which disclosed Mr. Dranguet's certification as a "Louisiana Certified Residential Appraiser"; however, the mayor was not aware that this certification was not adequate for the requested appraisals.

We recommend the City hire an independent and qualified appraiser to reappraise the Braxton property and seek to recover any difference in value should the reappraised value be less than Mr. Dranguet's appraised value. Also, the City should use, for future real estate appraisals, a certified general appraiser, who is licensed to value all types of real estate. City management should also routinely verify and document the licenses and certifications of all vendors.

¹ Louisiana Revised Statute 37:3392(12) provides that "residential certified real estate appraiser" means any person who holds a current, valid license issued by the board to appraise one to four residential units, without regard to transaction value or complexity, and perform appraisals of other types of real estate having a transaction value of two hundred fifty thousand dollars or less. This includes the appraisal of vacant or unimproved land that is utilized for one to four family residential units.

The Honorable Wayne McCullen, Mayor
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This correspondence represents our finding and recommendation as well as management's response. This correspondence is intended primarily for the information and use of the City of Natchitoches and its management. I trust this information will assist you in the efficient and effective operations of the City. Should you have any questions, please contact me at (225) 339-3839 or Mr. Dan Daigle at (225) 339-3808.

Sincerely,



Steve J. Theriot, CPA
Legislative Auditor

KJ:GD:DD:dl

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Management's Response



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City of Natchitoches
Oldest Settlement in the Louisiana Purchase

OFFICE OF THE MAYOR
Wayne McCullen

August 27, 2007

Honorable Steve Theriot, CPA
Office of Louisiana Legislative Auditor
State of Louisiana
1600 North Third Street
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Re: City of Natchitoches
Response to draft of compliance audit

Dear Mr. Theriot:

The Office of the Mayor of the City of Natchitoches, Louisiana, acknowledges receipt of the draft of the Compliance Audit Findings prepared by your office. The following is the response of the Office of the Mayor of the City of Natchitoches, and this response will be submitted to the City Council of the City of Natchitoches for approval at the next scheduled meeting of the City Council.

The City of Natchitoches does not dispute the factual findings as laid out in the first three paragraphs of the concerns and results of the audit report. The City of Natchitoches is not in a position to comment on the findings contained in the fourth paragraph of the concerns and results of the audit report.

The City of Natchitoches does not have a list of the appraisals considered by the auditor, and for the purposes of this response the total number of appraisals prepared by Mr. Dranguet and the fee charged are accepted.

While acknowledging that as a residential certified real estate appraiser, Mr. Dranguet is limited under R. S. 37:3392(12) to performing certain types of appraisals, The City of Natchitoches would offer that it retained Mr. Dranguet in an effort to avoid expense and protect public funds. On average, the fee for an appraisal from a general certified appraiser will be three times that which Mr. Dranguet charged. In addition, Mr. Dranguet has a turn around of days rather than the weeks or months that can be expected when an appraisal is ordered from a general certified appraiser. Finally,

Honorable Steve Theriot, CPA
Office of Louisiana Legislative Auditor
August 27, 2007
Page 2

Mr. Dranguet is a resident of the City of Natchitoches, and is attuned to the local real estate market. Regardless of licensing, Mr. Dranguet has a knowledge of the local real estate market that is not readily available to an out of town general certified appraiser. In summary, Mr. Dranguet is a more economical, faster and knowledgeable choice for appraisal services.

While desiring to provide an explanation, the City acknowledges that a general certified appraiser should be used for appraisals exceeding the licensing limitations for a residential certified real estate appraisal. As a result of the on site audit and information shared by personnel of the auditor's office, The City of Natchitoches has already adopted a requirement and policy that a general certified appraiser be retained for all appraisals over the value of Two Hundred Fifty Thousand (\$250,000.00) dollars. In fact, the most recent appraisal ordered by The City of Natchitoches was through a general certified appraiser. The City of Natchitoches will revise its policy to fully comply with R.S. 37:3392(12).

The City of Natchitoches will further direct all Department Heads to instruct all personnel to verify and document the licenses and certifications of all persons and entities doing business with the City of Natchitoches.

With regard to the recommendation that the City retain a general certified appraiser to reappraise the future site of the Louisiana Sports Hall of Fame and Louisiana Museum and seek to recover any difference in value, the City fails to see the utility of such an undertaking. Before the purchase from the Braxtons was completed, the City of Natchitoches sold a tract directly across Lafayette Street from the Braxton tract for \$15.07 per square foot. The City of Natchitoches issued a Request for Proposals on this tract and sold it after receiving and reviewing proposals. Thus, the market proved a per square foot value in excess of the value of \$13.60 set in the Dranguet appraisal.

In closing, the Office of the Mayor of the City of Natchitoches offers the above as its response to the Draft Compliance Report, and will submit same to the City Council of the City of Natchitoches with a recommendation that the Council approve and adopt the response as the official response of the City of Natchitoches. The Office of the Mayor would once again thank you and your staff, and promise our continued and open cooperation.

Sincerely,



Wayne McCullen, Mayor
City of Natchitoches

C.E. 'ED' DRANGUET
CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER #R0738
304 UNIVERSITY PARKWAY
NATCHITOCHEs, LA. 71457
Telephone (318) 352-7767

September 5, 2007

Ms. Kimberley Jones
Compliance Auditor of the
Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

Dear Ms. Jones:

I acknowledge receipt of a draft of your compliance audit report on the City of Natchitoches relating to that certain tract of land acquired by the City for the Louisiana Sports Hall of Fame Museum. Please consider this letter as my response to same.

On December 3, 2004, I appraised the tract in question at the request of Mr. Braxton and estimated the fair market value to be \$175,000.00. At the time of the appraisal, the property was used as a car parking lot. I had no information or indication that the probable use was anything other than a car parking lot.

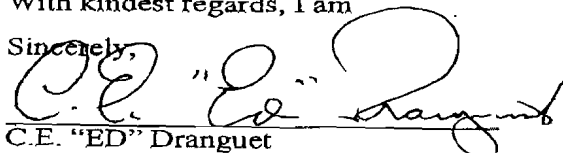
In late December 2004 or early January 2005, I learned the City was in the process of acquiring the property to be used as an income producing public museum. I appraised the property on January 5, 2005 and estimated the fair market value to be \$320,000.00 based on that intended and probable use. I was not provided with a copy of the option contract referenced in your report or aware the contract was contingent upon the estimated fair market value. Attached for your review is an addendum defining "Highest and Best Use". The highest and best use for this particular tract changed immediately upon news that the City was in the process of acquiring the property for the purpose of constructing the Louisiana Sports Hall of Fame Museum, resulting in a significant increase in fair market value. In fact, all of the surrounding sites, as well as the subject property, immediately and significantly increased in value as reflected in the purchase price of the surrounding neighborhood properties.

The report seems to focus on the reason for the appraisal. I agree that the intended use of an appraisal should not affect the appraised value of property. With respect to my appraisal of the subject property, the intended use of the appraisal had no bearing whatsoever on the estimated fair market value. My understanding was that the initial appraisal was requested for estate planning purposes. Your report indicates the initial appraisal was requested for purposes of determining net worth. Under either scenario, my initial estimate of the fair market value was based upon what I understood and believed to be the highest and best use, namely, a car parking lot. My subsequent appraisal was based upon what I understood and believed to be the highest and best use, namely, an income producing museum.

Lastly, I have been a licensed, certified residential real estate appraiser for over thirteen years, having prepared several thousand appraisal reports, without ever having been accused of improper action. The report concludes I have appraised approximately 10 properties for the City of Natchitoches over the last ten years that were non residential properties valued above \$250,000.00. According to LREAB Rules, I am required to maintain records for five years. Accordingly, I am not in a position to fully respond to those findings but wish to inform you that I am in the process of "self reporting" to the LREAB with respect to same.

With kindest regards, I am

Sincerely,


C.E. "ED" Dranguet

HIGHEST AND BEST USE

'Highest and Best Use' is defined as 'That reasonable and probable use that will support the highest present value, as defined, as of the effective date of the appraisal'. Alternately, that use, from among reasonable, probable and legal alternative uses, found to be physically possible, which results in the highest land value. Highest and best use analysis must always be considered from two different approaches. The first approach will be to examine the highest and best use of the site as if vacant. Once this use is determined then the highest and best use of the site with the proposed improvements will be considered.

There are four tests that must be utilized in order to determine the highest and best use of the vacant site:

Legally Permitted: Public legal restrictions (such as zoning regulations, building codes, or environment regulations) and private restrictions (such as protective covenants that run with the land and are passed from owner to owner) can limit the type of improvements that may be placed upon a building site. Easements and encroachments also affect the type of improvements that may be considered upon a lot.

Physically Possible: The Physical Characteristics play a major role in determining the type of improvements that can be placed upon a site. Road frontage, typography, size, soil and subsoil conditions are all factors in determining utilizations.

Economically Feasible: This test requires a critical examination of the market demand for the potential uses. There may be many uses that are physically possible and legally permitted, but unless the demand for that use is present, then it fails this test of economic feasibility.

Most Profitable: Maximum return is the key to this test. After the previous three tests are met, then, that use, which will yield the maximum return, will become the highest and best use.