

ATT: Lori Barlow

**John Clarizio**

9-22-15

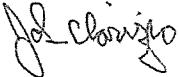
Hello Christina,

I am sending you this letter to inform you that I am against the development that Black Reality wants to build on the Painted Hills Golf Course. (Painted Hills; Sub-2015-001/PRD-2015-001). Listed below are a few Bullet points to review.

- **Perpetuity:** In 1985 the previous owners of the property tried to develop part of the property into apartments and this was ruled by the County Hearing Examiner that the best use of the property would be a golf course. Based on these findings a conditional use permit was granted. Perpetuity does not go away. Please review this contract.
- **Flood plain:** Most of the 99 acres are in the flood plain and building holding ponds on the adjacent properties will not direct water to the holding ponds. My property is on Madison Road and every year we have waterfront property. (With the exception of the winter of 2015). Building houses in a flood plain without basements will result with the houses moving off the foundations like what recently happened in Flat Gap Kentucky. (Article from the Review 8-1-15). If my vinyl fence post that are set in concrete move in the flood plain, what do you think will happen to the houses, driveways, sidewalks and landscaping in the flood plain?
- **Natural ponding that currently exists:** Black Reality drained two ponds and pumped the water into Chester Creek. Draining the two ponds killed all the frogs and cat tails.
- **Impact on fish bearing creek:** the creek runs through part of the golf course and after reviewing the Black Reality plans the creek is not being considered.
- **The City needs to require an Environmental Impact Statement** due to the depth and breadth of the project that will cause harm to the Natural Environment and Human Environment.
- **Traffic and lack of adequate road structure:** With Madison Road, Thorpe Road, and Dishman Mica Road all only being two lane roads the traffic will be dangerous and unsafe for the neighborhood and schools.
- **Suggestions for the 99 acres:** 1. Black Reality sells the land to the group that wants to make it into a links golf course. 2. Sell the land to the group that will have private, public, public development. (A win win for everyone). 3. Black Reality builds on the land that is not in the flood plain and have the houses like the Greens.

Thank you for taking the time to review this letter and I will keep you informed and updated.

John Clarizio



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[dcriswell@balljanik.com](mailto:dcriswell@balljanik.com)  
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Telephone: (503) 228-2525  
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5 Attorneys for AmericanWestBank  
6

7 **UNITED STATES BANKRUPTCY COURT**  
8 **EASTERN DISTRICT OF WASHINGTON**

9 In re  
10 IWILL70 Properties, LLC,  
11 Debtor.

Case No. 12-03613-PCW11

**DECLARATION OF NIINA DAGUE IN  
SUPPORT OF MOTION OF  
AMERICANWEST BANK FOR RELIEF  
FROM AUTOMATIC STAY UNDER 11  
U.S.C. § 362(d)(1),(2) AND (3)**

14 I, Niina Dague, declare as follows:

15 1. I am a loan officer at AmericanWestBank ("AmericanWest" or "Lender").

16 2. I am an authorized representative of AmericanWest Bank ("Lender" or  
17 "AmericanWest"), and am authorized to submit this Declaration on Plaintiff's behalf. The facts  
18 set forth herein are stated from my personal knowledge or from the records of AmericanWest  
19 maintained in the course of its regular business activities. If I were called upon to testify, I could  
20 and would testify competently to the statements set forth herein.

21 3. In 2006, AmericanWest Bank made a loan to IWILL70 (the "Loan"). The Loan is  
22 evidenced by a Promissory Note in the original principal amount of \$1,572,500 dated as of  
23 March 2, 2006, as amended by a Change in Terms Agreement dated as of June 15, 2006  
24 (together, the "Note"). A copy of the Note is attached hereto as Exhibit 1.

25 4. The Loan is also evidenced by a Business Loan Agreement dated as of June 15,  
26 2006 (the "Business Loan Agreement"). A copy of the Business Loan Agreement is attached as

Page 1 - **DECLARATION OF NIINA DAGUE**

::ODMA\PCDOCS\PORTLAND\8709172

Ball Janik LLP  
101 SW Main Street, Suite 1100  
Portland, Oregon 97204-3219  
Telephone: (503) 228-2525

1 Exhibit 2.

2 5. The indebtedness evidenced by the Note and Business Loan Agreement is secured  
3 by a Deed of Trust dated March 2, 2006 and recorded on March 7, 2006 in the Spokane County  
4 official records as Recording No. 5351320, as modified by that certain Modification of Deed of  
5 Trust dated June 15, 2006 and recorded on July 13, 2006 in the Spokane County official records  
6 as Recording No. 5405738 (together the "Deed of Trust"). A copy of the Deed of Trust is  
7 attached hereto as Exhibit 3.

8 6. The Debtor failed to make principal and interest payments due under the Loan and  
9 breached its obligations under the Loan Documents and Deed of Trust in additional respects,  
10 including the non-payment of property taxes to Spokane County. On account of such events of  
11 default, AmericanBank notified the Debtor of its intent to enforce remedies available to it in a  
12 letter dated July 25, 2012.

13 7. In preparation for enforcement of its available remedies against the property  
14 securing the Loan, AmericanWest commissioned Auble, Jolicoeur & Gentry to prepare an  
15 appraisal of the property secured by the Deed of Trust (the "Property"). The appraisal, dated as  
16 of November 12, 2012, concluded that the Property has a fee simple interest market value of  
17 \$930,000.00. A true and correct copy of the November 12, 2012 appraisal is attached hereto as  
18 Exhibit 4.

19 8. As of the date of the petition, the amount owing to Spokane County for unpaid  
20 property taxes was \$66,817.11. Following a monthly interest rate of 1% on all amounts owing,  
21 along with a 3% penalty for the current year owing as of June 1, 2012, that amount has increased  
22 to \$67,918.40 as of November 19, 2012. This amount continues to accrue interest, and will face  
23 an additional 8% on the current year if payment is not made by December 1, 2012. True and  
24 correct copies of charges statements are attached hereto as Exhibit 5.

25 9. As of December 3, 2012, the following sums were due and owing under the Loan  
26 Documents: Principal of \$797,081.40, interest of \$36,045.57, and late fees, appraisal fees and

1 attorneys' fees and costs totaling \$44,255.71, for a total indebtedness of \$877,382.68.

2 10. AmericanWest has received no interest payments on the Loan during this  
3 Chapter 11 case.

4 I declare under penalty of perjury under the laws of the State of Washington that  
5 the foregoing is true and correct.

6 DATED: December 5, 2012

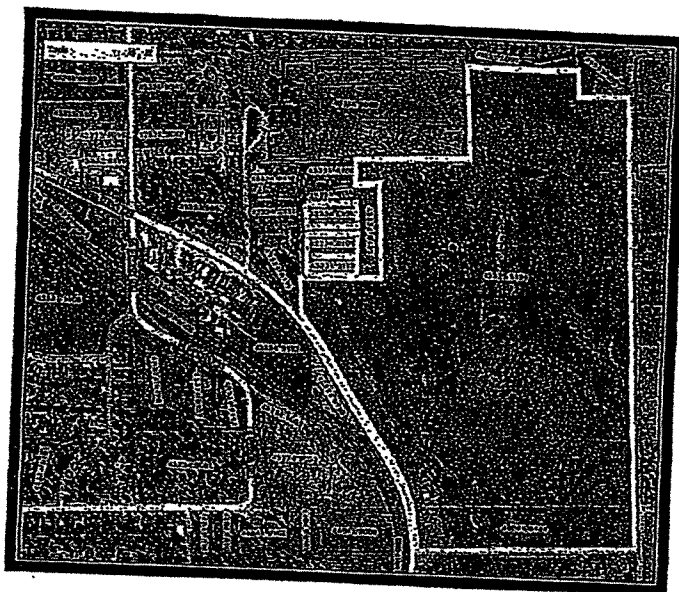
7 /s/ Niina Dague  
8 Niina Dague

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Appraisal of Real Property

Painted Hills Golf Course

4403 S. Dishman Mica Road, Spokane Valley, Washington  
Client File No.: 12-000767-01



As of November 12, 2012

Summary Report

Prepared by: Vicki K. Mundlin, MAI

**PRINCIPALS**  
Bruce C. Jolicoeur, MAI, President  
J. Michael Gentry, MAI  
Vicki K. Mundlin, MAI\*  
Karna K. Meck, MAI  
Karlene R. Perry, CEO

**ADVISOR**  
David C. Auble, MAI



**APPRAISAL ASSOCIATES**  
Gary H. Zahler, CPA, MAI\*  
David K. Adamson, MAI  
Mark F. Noble  
Carl C. Durkooop  
Kari J. Collins  
Kristin L. Hermann\*  
Kimberly L. Smith  
Cody L. Hymes

November 20, 2012

Mr. Brett Heidel  
American West Bank  
110 S. Ferrall Street  
Spokane, WA 99202

RE: Painted Hills Golf Course  
4403 S. Dishman Mica Road  
Spokane Valley, Washington  
Client File No.: 12-000767-01

Dear Mr. Heidel:

At your request, I have analyzed the real property referenced above to determine the Market Value of the Fee Simple Interest as of November 12, 2012. I personally inspected the property that is the subject of this analysis and report on November 12, 2012. The report was issued on November 20, 2012. I understand that you and American West Bank, as clients, intend to use the results of this analysis as a periodical valuation of the asset. Only you and the stated intended users may rely on the information and opinions expressed in this report and it may not be used for other purposes.

The appraisal analysis and the resulting report were prepared in accordance with the Standards of Professional Practice and Code of Ethics of the Appraisal Institute, the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation, and the requirements of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA). All applicable valuation approaches were employed and developed at sufficient depth to result in a credible opinion of value. The scope of my research and analysis and the results of the appraisal are described in the attached summary report.

The subject of this appraisal is the existing nine-hole regulation golf course, nine-hole executive golf course, driving range, practice facility, and clubhouse known as Painted Hills Golf Course. The 88.94-acre Painted Hills Golf Course was developed in 1988 between the intersections of Dishman Mica, Thorpe, and Madison Roads, generally south of 40<sup>th</sup> Avenue within Spokane Valley city limits. The subject property includes three additional 0.87-acre parcels platted as single-family lots producing a total site area of 91.55 acres. The Painted Hills Golf Course sold in March 2006 at a reported price of \$1,850,000, although the real estate was attributed a value of \$1,520,000.

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\*N. Idaho Office • 1023 W. LaCrosse Avenue, Coeur d'Alene, ID 83814 • 208-292-2965 • Fax 208-292-2971  
[www.auble.com](http://www.auble.com) • email: [info@auble.com](mailto:info@auble.com)

Mr. Heidel  
RE: Painted Hills Golf Course  
November 20, 2012  
Page 2

I have analyzed the golf course as a going concern based on historical and potential income production. The owner has filed for bankruptcy; therefore I have not been provided any current information with regard to the number of rounds played, or income and expenses for 2012. The most recent information available is from year-end 2011 financials. Only the exterior of the clubhouse was inspected; however, the interior is reasonably expected to be in similar condition.

Information pertaining to the number of rounds played at the subject golf course, for either the regulation course or Par 3 course, has not been provided for prior years either. The gross revenues are combined; therefore, it is impossible to determine which of the two are more popular, or generate greater revenues. The owner has previously stated that the additional maintenance work associated with the Par 3 is nominal, since the adjacent grounds are already being maintained. I have analyzed the property's historic revenue and expenses and do not believe the lack of data associated with the rounds played at the subject significantly limits my ability to value the property as a going concern.

In determining the net operating income associated with the going concern I have adjusted the profit and loss statements for tax-related expenses, personal expenses, owner's contribution competitive salary, and for some years, an exceptionally high over/short category. Amortization and depreciation are tax-related expenses included in the profit and loss statements, which should not be included in determining the net operating income of the going concern.

Additionally, personal expenses allowed for tax purposes should not be included in the calculation of the net operating income. I have adjusted the operator's statements for automobile expense. The operator provided a description of duties and responsibilities associated with each owner/operator. There are four owner/operators, which are said to work approximately 40-hour work weeks. Some of the roles and responsibilities appear to overlap. Linda and John McElhinny's responsibilities include planning and oversight of the residential subdivision, which should not be included as an expense of the golf course. I have estimated a competitive salary for the owner's contributions necessary to support the golf course operation at \$100,000.

The current owners have proposed development of 25 single-family residential lots amid 8.96 acres located at the northwest corner of the property. The single-family lots would incorporate the three 0.87-acre parcels and a portion of the larger site not currently used for the golf course operation. The owners have submitted a preliminary plat application with the City of Spokane Valley. A moderate size portion of the subject site and immediately surrounding area is designated as Compensatory Storage Areas within flood plains identified by FEMA. Development within the flood plain areas would require mitigation including building sites one foot above the flood plain elevation. The City of Spokane Valley and FEMA updated the flood plain area with the work beginning in 2006. It was finally ratified in July 2010. The amendments to the flood plain area exclude a significant portion of the subject site. The City of Spokane Valley and subject property owners put the preliminary plat application on hold until the proposed amendments were confirmed.

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AUBLE, JOLICOEUR & GENTRY

Mr. Heidel  
RE: Painted Hills Golf Course  
November 20, 2012  
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For the current appraisal, I have re-interviewed Micki Harnois, City Planner, and understand that although substantial work was completed in 2007, there has been little or no progress since the 2010 ratification of the revised FEMA Maps.

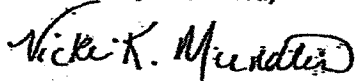
The plat application still needs the SEPA review, which will include recommendations regarding neighborhood road improvements and to go through a public hearing. My last interview with Tim McElhinny was in March 2012, when he indicated they are waiting for the residential market to improve prior to moving forward. It is further my understanding from Mr. McElhinny, as well as City Engineers, that substantial improvement to flooding on Thorpe Road near the Chester Creek Par 3 has been made with the relocation of culverts and unclogging of the pipe that allows water to pass beneath the road in this location. Since Thorpe Road represents the south boundary of the City of the Spokane Valley, residents south of Thorpe Road, including the owners of Haase Landscaping in this location, are pushing county officials to deal with the build-up of silt in the Chester Creek floodway that is causing the water to back up both north and south of Thorpe Road. It is my understanding there is no time line or work planned at this time by the County.

It is difficult to say what conditions of plat approval would be placed on the proposed development if approved by the City of Spokane Valley. Off-site improvements to existing City of Spokane Valley roads and rights-of-way would be likely. The developer would also be required to extend water lines approximately 400' to the plat boundary. The proposed plat outlines the northwest corner of the existing golf course; however, development would likely result in realignment of the Hole 2 tee box as well as the fairway and green of Hole 3. As will be discussed within this report, the highest and best use of the subject property would be a large phased residential subdivision. Plat requirements would likely be far greater with full development of the site. The property has frontage on three city roads. The City of Spokane Valley would likely require modest improvements and widening of these streets.

On November 12, 2012, Vicki K. Mundlin, MAI, personally inspected the exterior of the subject property and subsequently investigated the market for this type of property, as well as other pertinent facts affecting value. Based upon my examination and study of the property and the market in which it competes, and subject to the limiting conditions contained later in this report, I have formed the opinion that the Market Value of the Fee Simple Interest, as of November 12, 2012, is:

NINE HUNDRED THIRTY THOUSAND DOLLARS  
(\$930,000)

Respectfully submitted,



Vicki K. Mundlin, MAI  
Washington State Certified General Appraiser  
Cert. No.: 1100856

AUBLE, JOLICOEUR & GENTRY



**REGION, COMMUNITY, NEIGHBORHOOD & PROPERTY DESCRIPTIONS**

**Access & Visibility:**

Currently the subject property is accessed off of Thorpe Road, although the property could be accessed off of Madison Road and/or Dishman Mica Road.

**Topography & Soils:**

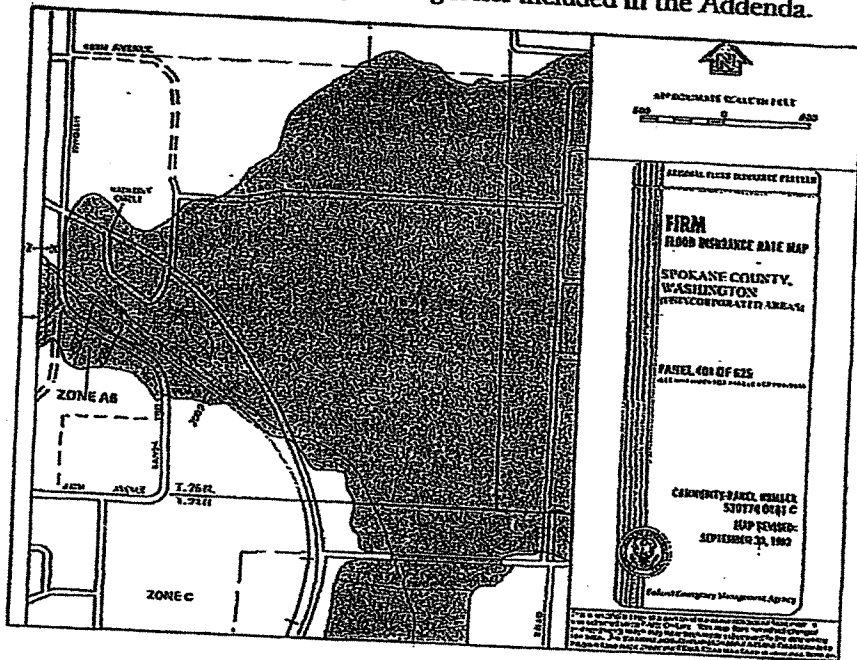
The subject property has a topography which is level to undulating to the southeast. The soils are made up of Spokane Stony Loam and Bernhill Silt Loam according to the Spokane County Soil Survey. Both of these soils have good drainage potential and, based on the surrounding improvements, seem to be suitable for the subject site and potential uses.

**Flood Zone/Plain:**

The subject is shown on FEMA Community Panel #53063C0751D, effective July 6, 2010. The site was historically illustrated on panel #5301740401C, with an effective date of September 30, 1992. The historic map shows the majority of the site being designated Zone A, within the 100- to 500-year flood zone. A small portion in the southwest corner is shown to lie outside of the 100- and 500-year flood zone. The new FEMA map allocates a smaller portion of the property to the AE zone, within the 100- to 500-year flood zone. I have estimated approximately two thirds of the site to be within the flood zone (61.03 acres) and one third of the site to be outside of the flood zone (30.515 acres).

The portion of the subject property designated "Zone AE, Compensatory Storage Area" can be developed, although mitigation would be required. The most significant requirements are that building sites must be one foot above the flood elevation, storage area for water drainage must remain the same, and fill can only be used from within the site. The details can be reviewed in the Storhaug Engineering letter included in the Addenda.

**Historic Flood Map #5301740401C**



Painted Hills Golf Course  
As of November 12, 2012  
File # 12636-P18



## REGION, COMMUNITY, NEIGHBORHOOD & PROPERTY DESCRIPTIONS

**Extraordinary Costs:** The proposed development is located within a flood plain boundary. Development will require cut and fill to raise the elevation to one foot above the flood plain elevation. This would increase costs slightly; however, the greatest increase in cost will include extensive on-site drainage. Typical drainage costs range from \$1,000 to \$1,500/lot. More difficult projects with terrain issues, rock, and wetlands produce costs from \$2,500 to \$4,000/lot and higher. I have concluded drainage costs of \$2,000/lot, greater than typical developments; therefore, the subject development would generate drainage costs of \$50,000 more than a typical development.

### Potential Development of the Overall Property

In the following valuation I will analyze the larger subject property as potential residential development land. Development of the Cottages at Painted Hills includes approximately 180,000 sf within the flood plain, which would require 260,600 cf of fill from the flood plain mitigation area. This produces a ratio of 1.45 cubic feet of fill for one square foot of developed area. An average flood volume mitigation depth of 1.45 feet would produce a one to one ratio. This would not be an extensive cut, although some areas would likely be deeper and some not cut at all. The proposed Cottages at Painted Hills produced a lower cut depth, because the owners did not want to affect the golf course.

I have concluded the larger site could support development within the flood plain at a one to one ratio where each square foot developed would require one square foot of flood volume mitigation area, based on the proposed development of the Cottages at Painted Hills and characteristics of the larger site. This mitigation would require an average depth of flood volume mitigation area at approximately 1.45 feet.

I previously estimated approximately two thirds of the larger site to be within the flood zone (61.03 acres) and one third of the site to be outside of the flood zone (30.515 acres). The area outside of the flood zone is usable for development. The 61.03 acres within the flood zone would require flood volume mitigation, which I previously concluded at a one to one ratio. Of the 61.03 acres within the flood plains, approximately 30.515 would be usable, while the remaining 30.515 acres would be required for flood volume mitigation. The total usable area, based on this analysis, is 61.03 acres.

The proposed development of the Cottages at Painted Hills includes 25 single-family lots on approximately 8.96 acres at a density of 2.79 lots per acre. The relatively low density is due to necessary drainage easements, which would be likely throughout development of the larger site. I have concluded a similar density of 2.87 lots per acre with 175 lots overall.

## John Clarizio

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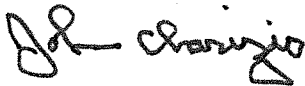
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John Clarizio



RECEIVED  
SEP 16 2015  
SPOKANE VALLEY  
COMMUNITY DEVELOPMENT