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March 22, 2010

Tracie Lindeman, Clerk of the Supreme Court  
201 South Carson Street  
Carson City, NV 89701

**FILED**

MAR 30 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *D. Castelli*  
CHIEF DEPUTY CLERK

Re: Public Comment on ADKT 435  
In the Matter of the Adoption of Rules for Foreclosure Mediation

To the Honorable Justices of the Supreme Court:

I serve as President of the Nevada Association of REALTORS. The Nevada Association of REALTORS (NVAR) is the largest trade organization in the State of Nevada. Our mission is to protect private property rights and enhance the success and profitability of the real estate profession.

As an Association we actively supported AB 149 through the 2009 Legislative Session and recognized the importance of this program to the public and to the recovery of the real estate industry in Nevada. NVAR closely monitors the activity of the Foreclosure Mediation Program, and reports the statistics released by the Supreme Court to Association Members.

Our legal counsel, Teresa McKee, had the opportunity to appear before you on March 16, 2010 at the Matter of the Adoption of Rules for Foreclosure Mediation. We appreciate the opportunity to provide our public input in the forum. Those comments are reduced to writing, here, for your convenience.

Ms. McKee commented only on Rule 7 (2), regarding the use of Broker Price Opinions.

During the 2009 Legislative Session NVAR was deeply involved in the creation of the Broker Price Opinion statutes, now codified as NRS 645.2515. A BPO is a snapshot of the market conditions as they exist today. BPOs are an opinion of the market price or listing price of real property. Giving the opinion of the market or listing price of real property is part of a real estate licensee's profession. The position of NVAR is that BPOs may be used wherever not otherwise prohibited by law, and not for the purpose of loan origination. NVAR asserts that the use of BPOs in Loan Modification, or Foreclosure Mediation is not a violation of law.

BPOs are usually less costly than a full appraisal, and in most cases obtained much quicker. This is a benefit to both the lender and borrower in the Foreclosure Mediation Process.

**MAR 29 2010**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT

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Additionally, many mediators commented that the value of the property has never come into play in the mediations. Most mediations, we heard, were not directed at principle reduction, but loan modification. Judge Mosley commented to the effect that he did not recall a single argument over the value of the home, that value was simply not a substantive issue in the negotiations.

NVAR strongly supports the use of BPOs in lieu of appraisal as a valuable component of the mediation process, and urge the Court and the Rules Committee to amend Rule 7 (2) accordingly.

We would request a review of the proposed amended language, and would suggest that the amendment be changed to read "The mediator may accept a broker's price opinion letter (BPO) in lieu of an appraisal. The BPO must comply with the new provisions of NRS 645.2515."

Finally, NVAR heard the request of mediators and Speaker Buckley regarding needs outside the Court's reach. Mediator Justin Clausert indicated the need for mediation rooms in Washoe County. The Nevada Association of REALTORS would offer up to three open meeting rooms for scheduling of foreclosure mediations. We are working with our local REALTOR Associations on obtaining additional space in Las Vegas, Reno, Carson City and Incline Village. Additionally, NVAR has obtained grant money from the National Association of REALTORS for the purpose of helping homeowners in foreclosure. Funds have been released to local area non-profit organization who counsel homeowners regarding the foreclosure process. We are currently reviewing our funding to see if there are funds to support the LACSN's efforts to videotape the homeowner education class.

NVAR continues to actively support efforts help consumers through the foreclosure process.

Sincerely,

Linda Rheinberger, NVAR President 2010