

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

FREDERICK BYRD  
TX-1329257-R

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DOCKETED COMPLAINT NO.  
06-108

### AGREED FINAL ORDER

On this the 29<sup>th</sup> day of FEBRUARY, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Frederick Byrd, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

#### **FINDINGS OF FACT**

1. Respondent Frederick Byrd is a Texas state certified residential real estate appraiser, holds certification number TX-1329257-R, and has been certified by the Board during all times material to the above-noted complaint cases.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§ 153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about March 11<sup>th</sup>, 2005, April 8<sup>th</sup>, 2005, and May 11<sup>th</sup>, 2005, respectively, Respondent appraised real property located at 3345 Eichman Road, Poteet, Atascosa County, Texas, 261 Broward Avenue, Marion, Guadalupe County, Texas 78124, and 620 East Trail, Pleasanton, Atascosa County, Texas 78604 ("the properties").
4. On or about April 17<sup>th</sup>, 2006, the Complainant, Deloris Kraft-Longoria, filed a staff-initiated complaint with the Board. The complaint was based upon information submitted by Larry Thompson, the Acting Director of the Processing and Underwriting Division of the United States Department of Housing and Urban Development ("HUD"). HUD claimed that the Respondent violated various provisions of USPAP during the course of his appraisal of the properties.
5. On or about April 17<sup>th</sup>, 2006 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.

6. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal reports for the properties:

- a) Respondent communicated misleading appraisal reports for the properties;
- b) Respondent improperly invoked the jurisdictional exception rule;
- c) Respondent failed to maintain records evidencing collection, verification and analysis of sales and cost data for use in his appraisal reports;
- d) Respondent did not provide a summary of his reasoning behind his highest and best use determinations for the properties being appraised;
- e) Respondent used inappropriate methods or techniques in his cost approach analysis, including his site value determination, cost and depreciation analysis;
- f) Respondent failed to analyze and reconcile sales comparison data properly, failed to analyze sales concessions, did not make appropriate adjustments, and generally used improper methods and techniques;
- g) Respondent did not properly analyze the agreement of sale for the Broward property;
- h) Respondent erroneously used assemblage sales and further failed to disclose and analyze the use of such sales;
- i) All of Respondent's reports contained substantial errors of omission or commission that significantly impacted the appraisal assignments;

7. Respondent made material misrepresentations or omissions of material facts as noted above for the appraisal reports on the properties.

### **CONCLUSIONS OF LAW**

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated numerous provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).

3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by making material misrepresentations or omissions of material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent:

- a. Shall have his certification suspended for 12 months;
  - i. During the first month of the suspension it shall be in full effect;
  - ii. During the remaining 11 months the suspension shall be fully probated under the condition that Respondent comply with the terms of this agreed order;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in report writing and case studies;
- d. Pay to the Board an administrative penalty of \$5,000.00; and,
- e. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. All classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Failure to comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Consent Order by the Texas Appraiser Licensing and Certification Board vote.

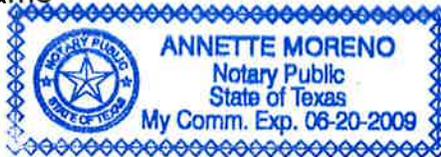
Signed this 11 day of January, 2008.

Frederick Byrd  
FREDERICK BYRD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 11 day of January, 2008, by FREDERICK BYRD, to certify which, witness my hand and official seal.

Annette Moreno  
Notary Public Signature

Annette Moreno  
Notary Public's Printed Name



Signed by the Commissioner this 8th day of February, 2008.

[Signature]  
Timothy K. Irvine, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 29th day of FEBRUARY, 2008.

[Signature]  
Larry Kokel, Chairperson  
Texas Appraiser Licensing and Certification Board  
Clinton P. Sayers