

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ANNE KATHLEEN CHANEY
TX-1320365-R

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DOCKETED COMPLAINT NO.
07-049 & 07-113

AGREED FINAL ORDER

On this the 21st day of August, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Anne Kathleen Chaney (Respondent).

In order to conclude this matter Anne Kathleen Chaney neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. 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, Anne Kathleen Chaney, is a state certified residential real estate appraiser who currently holds and held certification number TX-1320365-R during all times material to the above-noted complaint cases.
2. Respondent appraised 9301 Harrisburg Lane, McKinney, Texas 75051-6033 ("the Harrisburg property") on or about July 11th, 2004.
3. Respondent appraised 1028 Glen Chester Drive, Flower Mound, Texas 75022-4357 ("the Glen Chester property") on or about May 11th, 2003.
4. Thereafter complaints relating to each of these real estate appraisal reports were filed with the Board. The complaints alleged that Respondent failed to comply with the Uniform Standards of Professional Appraisal Practice ("USPAP") in her completion of these reports.
5. After receipt of each complaint, 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 complaints. Respondent's responses were received.
6. Respondent allegedly violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and

155.1(a) by failing to comply with USPAP in effect at the time of her appraisal or appraisal practice for the properties noted above.

7. Respondent's alleged USPAP violations with respect to the Harrisburg property include:
 - a) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because she failed to maintain a work file as required by the record keeping provisions;
 - b) USPAP Standards 1-2(c) & 2-2(a)(v) & 2-2(b)(v) – Respondent failed to develop and provide support for an opinion of exposure time;
 - c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description adequately by failing to report the zoning classification and description correctly as well as the lot shape;
 - d) USPAP Standards 1-3(a) & 2-2(b)(ix) – Respondent failed to analyze and provide support for the effect on use and value of economic supply and demand and market area trends and her unsupported conclusions were inconsistent with the market data available;
 - e) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent has failed to provide in her report a brief summary of her rationale and support for her determination of the Harrisburg property's highest and best use;
 - f) USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent has failed to use an appropriate method or technique to develop a site value determination and failed to provide support, reasoning and analysis in her report or work file for her site value determination. Market data for the area showed a significantly lower lot value;

- g) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to use an appropriate method or technique to develop a determination of the cost new of improvements and failed to provide support, reasoning and analysis in her report or work file for her cost new of improvements determination;
- h) USPAP Standards 1-1(a) & 1-4(b) – Respondent has failed to employ recognized methods and techniques in her cost approach analysis for the reasons noted above;
- i) USPAP Standards 1-4(a) & 2-2(b)(ix) & 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in her sales comparison approach. Respondent used inappropriate, dissimilar, sales for comparison to the Harrisburg property and / or made no adjustments or inappropriate adjustments even though more appropriate, more similar sales were readily available in the area and should have been used, and would have resulted in a significantly lower value conclusion. These improper methods and techniques included things such as selecting comparables located in superior, golf course communities, selecting sales within planned unit developments with amenities the Harrisburg property lacked, and using comparables that were superior in quality of construction without making appropriate downward adjustments or comments. Respondent did not review sales from the Harrisburg property's subdivision. Respondent selected sales

outside her report-defined market area, over a mile away which were not similar to the Harrisburg property in terms of condition, location and quality of construction;

- j) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced a misleading appraisal report for the Harrisburg property that contained several substantial errors of omission or commission by not using correct methods and techniques. This resulted in an inflated appraisal report that was not credible or reliable.

8. Respondent's alleged USPAP violations with respect to the Glen Chester property include:

- a. USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because she failed to maintain a work file as required by the record keeping provisions;
- b. USPAP Standards 1-2(c) & 2-2(a)(v) & 2-2(b)(v) – Respondent failed to develop and provide support for an opinion of exposure time;
- c. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description adequately by failing to report the zoning classification and description correctly and by also indicating some \$100,000 in upgrades were made even though the items discussed were not superior to standard house features in this subdivision and by this builder;
- d. USPAP Standards 1-3(a) & 2-2(b)(ix) – Respondent failed to provide support for her analysis of the effect on use and value of economic supply

- and demand and market area trends;
- e. USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent has failed to provide in her report a brief summary of her rationale and support for her determination of the Glen Chester property’s highest and best use;
 - f. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent has failed to use an appropriate method or technique to develop her site value determination. Respondent used the extraction method, which is inappropriate in this case since the Glen Chester property was located in an area where lot sales data was available to determine site value more reliably and accurately;
 - g. USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to provide support for her analysis, and reconciliation of the cost new of improvements in her report or work file;
 - h. USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent failed to provide support for her analysis and reconciliation of accrued depreciation;
 - i. USPAP Standards 1-1(a) & 1-4(b) – respondent failed to use an appropriate method or technique in her cost approach by using an incorrect method to determine site value and by failing to provide support for her analysis and reconciliation of the improvements’ cost and depreciation;
 - j. USPAP Standards 1-4(a) & 2-2(b)(ix) & 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in

her sales comparison approach. Respondent used inappropriate, dissimilar, sales for comparison to the Glen Chester property and / or made no adjustments or inappropriate adjustments even though more appropriate, more similar sales were readily available in the area and should have been used, and would have resulted in a significantly lower value conclusion. These improper methods and techniques included things such as selecting comparables which were located in different, and superior subdivisions and not adjusting for this, using comparables that were superior in quality of construction and not adjusting for this, failing to address age differences between the comparables she chose and the Glen Chester property and failing to adjust for the Glen Chester's superior adequacy (assuming Respondent's claim that the property was superior to the rest of the neighborhood is true). In general Respondent did not use recognized methods and techniques in her sales comparison approach and instead misrepresented that the comparables she selected were similar to the Glen Chester property when they were not;

- k. USPAP Standards 1-5(b) & 2-2(b)(ix) – Respondent misrepresented that there was not a transfer of the Glen Chester property when it had transferred 22 months prior to her appraisal report. Respondent stated in the Multi-Purpose Supplemental Addendum to her report that no sales or transfers had taken place 36 months prior to the report's effective date.
- l. USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced a misleading appraisal report for

the Glen Chester property that contained several substantial errors of omission or commission by not using correct methods and techniques. This resulted in an inflated appraisal report that was not credible or reliable.

9. Respondent allegedly made material misrepresentations and omissions of material fact in her appraisal of the Harrisburg and Glen Chester properties as detailed above.

10. Respondent allegedly accepted an assignment, was paid for and then produced appraisal reports for the Harrisburg and Glen Chester properties based upon a pre-determined value.

11. Respondent consents to the disciplinary action outlined below.

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. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

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

- a. Have her certification revoked for twelve months with this revocation being fully probated under the following conditions:
 - i. During the entire twelve month probation period Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities she has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of her appraisal reports and work files

for any appraisal assignments he performs during the course of her period of probation within twenty days of notice of any such request;

- ii. Respondent shall timely payment of the administrative penalty, and timely complete all of the remedial coursework required in this Order;
 - b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
 - c. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
 - d. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach;
 - e. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
 - f. Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing; and,
 - g. Pay to the Board a \$4,000.00 administrative penalty.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **NINE 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. Unless otherwise noted above, 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 timely 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 as provided for by TEX. OCC. CODE § 1103.518, including but not limited to revocation of the above-noted probation.

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 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 Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 17th day of June, 2009.

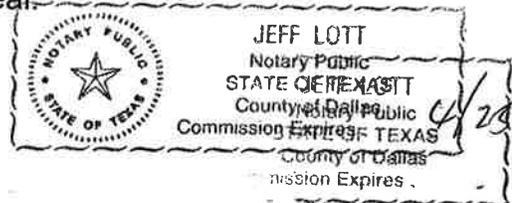
Anne Kathleen Chaney
ANNE KATHLEEN CHANEY

Sheldon Goldstein
SHELDON GOLDSTEIN, ATTORNEY FOR
ANNE KATHLEEN CHANEY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17 day of June, 2009, by ANNE KATHLEEN CHANEY, to certify which, witness my hand and official seal.

Jeff Lott
Notary Public Signature

Jeff Lott
Notary Public's Printed Name



Signed by the Commissioner this 21st day of August, 2009.

Loretta DeHay
Loretta DeHay, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21st day of August, 2009.

C. P. Sayers
Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board