

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.
15-111

PEGGY DIAMOND
TX-1326071-R

AGREED FINAL ORDER

On the 20 day of November, 2015, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the certification of Peggy Diamond (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent 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 Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1326071-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 1300 Bentbrook, Sherman, Texas 75092 ("the Property"), on or about August 16, 2014.
3. Thereafter, the complaint, numbered 15-111, was filed with the Board by an appraisal management company, on or about December 12, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about December 12, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about February 9, 2015.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

Agreed Final Order
Page 1 of 6

following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all documentation necessary to support her analyses, opinions and conclusions;
 - b. USPAP Competency Rule; USPAP Scope of Work Rule; 1-2(h) and 2-2(a)vii) – Respondent failed to perform the appraisal assignment for the Property in a competent manner and did not perform a scope of work necessary for development of credible assignment results;
 - c. USPAP Standards 1-2(e), 2-2(a)(iii), and 2-2(a)(viii); 1-3(a)-(b), 2-2(a)(viii) and 2-2(a)(ix) – Respondent failed to identify and describe the site and improvements accurately and did not address easements, or restrictions, and incorrectly reported the Property's zoning. Respondent also failed to analyze the effect on use and value of existing land use regulations and develop and providing a supporting explanation for her highest and best use determination;
 - d. USPAP Standards 1-4(b) and 2-2(a)(viii); 1-1(a) – Respondent failed to use an appropriate method or technique to develop her site value determination and generally did not employ recognized methods and techniques in her cost approach with regards to site value and depreciation. She also failed to collect, verify, and analyze cost data to determine the cost new of the improvements and to calculate accrued depreciation (related to obsolescence from the Property's in ground pool);
 - e. USPAP Standards 1-4(a) and 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable sales data and did not employ recognized methods and techniques in the sales comparison approach both in terms of selection of sales and in the analysis and application of adjustments for any differences between the sales and the Property;
 - f. USPAP Standards 1-5(a) and (b) and 2-2(a)(viii) – Respondent failed to analyze the contact for the Property and a prior sale of the Property which occurred within 3 years prior to the effective date of her report; and,
 - g. USPAP Standards 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced a report for the Property which contained careless errors and substantial errors of omission or commission which resulted in a misleading appraisal report for the Property and was not credible.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.

7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

ORDER

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

1. **EDUCATION.** On or before May 17, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
 - a. A minimum, 15 hour classroom course in USPAP;
 - b. A minimum, 7 hour classroom course in residential report writing;
2. **MENTORSHIP.** On or before February 17, 2016, Respondent shall complete sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final

Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

- a. Six (6) hours in the sales comparison approach (both selection of sales and analysis and support for adjustments);
 - b. Six (6) hours in the cost approach (including site valuation, cost new of improvements and market-derived depreciation analysis and support); and,
 - c. Four (4) hours in scope of work development.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
 4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ACKNOWLEDGMENT AND WAIVER

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. 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 website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution

of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: compliance.talcb@talcb.texas.gov; (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

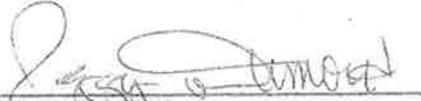
EXECUTION

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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.

RESPONDENT

Signed this 15th day of October, 2015.



PEGGY DIAMOND

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 15th day of October, 2015, by PEGGY DIAMOND, to certify which witness my hand and official seal.

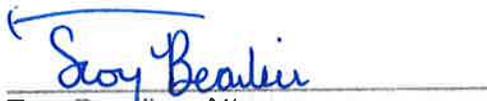


Notary Public's Signature



STANDARDS AND ENFORCEMENT SERVICES DIVISION

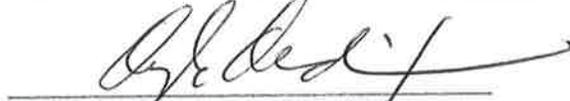
Signed by the Standards and Enforcement Services Division this 27th day of OCTOBER, 2015.



Troy Beaulieu, Attorney
Director, Standards and Enforcement Services Division
Texas Appraiser Licensing and Certification Board

COMMISSIONER

Signed by the Commissioner this 27 day of October, 2015.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this 20 day of November, 2015.



Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board