

TEXAS APPRAISER LICENSING §
AND CERTIFICATION BOARD

vs.

GREGORIO PALACIOS
TX-1331075-L

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DOCKETED COMPLAINT NO. 10-108
AND APPLICATION DENIAL

AGREED FINAL ORDER

On this the ^{21st}~~10th~~ day of May, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the licensure and application for certification of Gregorio Palacios, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude these matters Gregorio Palacios 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 Gregorio Palacios is a state licensed real estate appraiser, holds license number TX-1331075-L, and has been licensed by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Respondent appraised 4219 Robin Lane, Edinburg, Texas 78539 ("the Edinburg property") on or about June 4th, 2007.
4. Respondent appraised 4113 Ulex, McAllen, Texas 78504 ("the McAllen property") on or about March 17th, 2008.
5. Respondent appraised 2710 El Sol Drive, Weslaco, Hidalgo County, Texas 78596 ("the Weslaco property") on or about December 27th, 2009.
6. Thereafter, Respondent filed an application for a state certification with the Board.

7. The application was initially denied by the Board Staff after his experience submitted in conjunction with application was evaluated.

8. The experience evaluated included his appraisal of the McAllen and Weslaco properties.

9. The proposed denial of the application was based upon alleged violations of TEX. OCC. CODE §§ 1103.202(3) and 1103.405 and 22 TEX. ADMIN. CODE §§ 153.15(d) and (f)(1) and 153.20(a)(3) and 155.1(a) because the work did not generally comport with the Uniform Standards of Professional Appraisal Practice ("USPAP").

10. On or about December 15th, 2009, the Complainant, Jack Hall, an Investigator with the Texas Department of Insurance, filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report for the Edinburg property that did not comply with the USPAP.

11. On or about April 6th, 2010, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHAPTER 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

12. The parties have reached an agreement on resolution of this application denitla and complaint and wish to fully resolve these proceedings by means of this Agreed Final Order.

13. Respondent violated TEX. OCC. CODE § 1103.405, 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 report for the Edinburg property:

- a. Respondent failed to comply with the record-keeping provisions of the Ethics Rule;
- b. Respondent failed to report the scope of work necessary to complete the assignment;
- c. Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts declarations, special assessments, ordinances or other items of a similar nature;
- d. Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- e. Respondent failed to use an appropriate method or technique to develop an opinion of the site value;

- f. Respondent failed to employ recognized methods and techniques in his cost approach;
- g. Respondent failed to collect, verify, analyze and reconcile sales comparable data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- h. Respondent failed to explain the exclusion of the Income Approach;
- i. Respondent failed to analyze all sales of the subject within three years prior to the effective date of the appraisal;
- j. Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

14. Respondent violated TEX. OCC. CODE § 1103.405, 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 report for the McAllen property:

- a. Respondent failed to report the scope of work necessary to complete the assignment;
- b. Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- c. Respondent failed to provide a brief summary of his basis and rationale for his determination of the property's highest and best use;
- d. Respondent failed to collect, verify, analyze and reconcile accrued depreciations;
- e. Respondent failed to collect, verify, analyze and reconcile sales comparable data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- f. Respondent failed to analyze all sales of the subject within three years prior to the effective date of the appraisal;
- g. Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

15. Respondent violated TEX. OCC. CODE § 1103.405, 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 report for the Weslaco property:

- a. Respondent failed to report the scope of work necessary to complete the assignment;
- b. Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- c. Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;
- d. Respondent failed to provide a brief summary of his basis and rationale for his determination of the property's highest and best use;
- e. Respondent failed to collect, verify, analyze and reconcile sales comparable data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- f. Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

16. Respondent omitted material facts as detailed above.

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 §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record-keeping provisions); USPAP Standards: 1-2(h) & 2-2(b)(vii); 1-2(e)(i) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(a) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 2-2(b)(ix); 1-5(b) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Staff shall promptly issue Respondent's certification and Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- b. Attend and complete a minimum, 15 classroom-hour course in Sales Comparison Approach;

- c. Attend and complete a minimum, 15 classroom-hour course in Cost Approach; and
- d. 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. 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. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent satisfies that portion of the Agreed Final Order which he has defaulted on and provides adequate documentation of same to the Board.

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 10th day of May, 2010.

Gregorio Palacios Jr.
GREGORIO PALACIOS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 10th day of May, 2010, by GREGORIO PALACIOS, to certify which, witness my hand and official seal.

Brenda L. Trevino
Notary Public Signature



Brenda L. Trevino
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 25th day of MAY, 2010.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 21 day of May, 2010.

Douglas Oldmixon
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21st day of May, 2010.

James B. Ratliff
James B. Ratliff, Chairperson
Texas Appraiser Licensing and Certification Board