

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

LINDA DIANNE WEBB
TX-1324809-G

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DOCKETED COMPLAINT NO. 06-026

RECEIVED
TEXAS REAL ESTATE COMMISSION

NOV 09 2006

CASHER'S SECTION
OPERATOR

AGREED FINAL ORDER

On this the 9th day of February, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Linda Dianne Webb, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Linda Dianne Webb, a state certified general real estate appraiser, holds certification number TX-1324809-G, and has been certified since February 11th, 1993.
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 September 18th, 2005, Respondent appraised the subject property located at 108 West Commerce, Eastland, Eastland County, Texas ("the property") for the client, Barclay's Financial, Inc.
4. On October 26th, 2005, the Board received a complaint against Respondent from Brenda Koebnick of Minneapolis, Minnesota, in accordance with TEX. OCC. CODE § 1103.451. The complaint alleged that Respondent failed to timely honor their agreement for rendition of appraisal services and failed to communicate with her about these delays.
5. On or about November 3rd, 2005 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001 et. seq., 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 was received.
6. The Enforcement Division concluded that the Respondent's appraisal report violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:
 - a) USPAP Ethics Rule – Respondent violated the confidentiality provisions of USPAP by sending a copy of the report to her client's borrower. The borrower,

Brenda Koebnick was not Respondent's client (Barclay's Financial) and should not have been given confidential information.

- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent's site description is incomplete because it does not indicate the amount of frontage on Commerce Street or the depth of the site. Additionally, Respondent did not provide a plat or survey and did not sufficiently reveal the types of uses allowed or setbacks lines via the "B-1" zoning.
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent's improvement description is too brief and fails to adequately indicate the interior finish of the subject property's building, its access and what the general, overall construction features and quality were.
- d) USPAP Standards 1-4(f) & 2-2(b)(ix) – Respondent did not report any anticipated public and private improvements located on or off the site such as sidewalks, curbs, and trees (visible in the photographs) and did not indicate whether these were public or private.
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(ix) – Respondent failed to report any easements, encumbrances or restrictions as required.
- f) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent failed to adequately collect, verify, analyze and reconcile comparable sales data. Respondent failed to provide an adjustment grid or a detailed analysis of differing physical characteristics between the sales and the subject property. Additionally, a per unit of comparison was not utilized and in general there was an inadequate description of the sales and a lack of analysis of the sales data in relation to the subject property.
- g) USPAP Standards 1-1(a) & 1-4(a) – Respondent did not employ recognized methods and techniques with regard to her sales comparison approach since adjustments were applied on a total dollar basis and not a per unit basis. This resulted in a report that did not properly account for building and lot size, number of floors, condition and other important factors.
- h) USPAP Standards 1-5(a) & 2-2(b)(ix) -- Respondent failed to analyze all agreements of sale, options or listings of the subject property current as of the effective date of the appraisal. Even though her report indicates the appraisal is being conducted for mortgage loan purposes related to a purchase of the property, Respondent failed to report that the property was being purchased by Ms. Koebnick and did not report the sales price or whether the property had been listed for sale.
- i) USPAP Standard 1-1(a) – Respondent failed to correctly employ recognized methods and techniques to produce a credible appraisal. The credibility of

Respondent's report was significantly weakened because she did not adequately describe the subject site and improvement and failed to analyze the differences in the subject and comparable sales on a per unit basis.

- j) USPAP Standard 1-1(b) – Respondent omitted material facts about the subject property as well as its allowed zoning uses, and failed to report the contract of sale. These omissions all significantly affect the appraisal.
 - k) USPAP Standard 2-1(a) – Respondent's report is misleading because she failed to provide sufficient detail about the subject and provided inadequate analysis of the sales data. The report is also misleading to users because the sales history of the subject property is not reported.
 - l) USPAP Standard 2-1(b) – Because Respondent provided limited subject data and insufficient analysis of comparable sales and failed to report the sale status of the subject, her appraisal report did not contain sufficient information to enable intended users to properly understand and rely upon the report.
7. The Enforcement Division concluded that the Respondent violated TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of the appraisal report.
8. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making omissions of material facts in the appraisal report of the property. These omissions of material fact include: salient facts about the subject property as well as its allowed zoning uses, and failing to report the contract of sale.

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 (Vernon 2005).
2. Respondent violated the following USPAP provisions as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Ethics Rule; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(i) & 2-2(b)(iii); 1-4(f) & 2-2(b)(ix); 1-2(e)(iv) & 2-2(b)(ix); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-1(b); 2-1(a), and 2-1(b).
3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making omissions of material facts in her appraisal report.

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

1. Pay to the Board an Administrative Penalty of \$1,000.00;
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;
3. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

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. Failure to pay the administrative penalty within the time allotted shall result in **IMMEDIATE SUSPENSION** of Respondent's license pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

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 licensure.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational 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 license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

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.

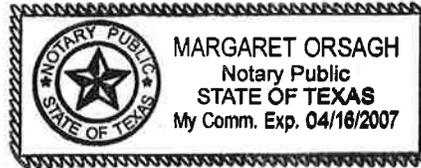
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 8 day of November, 2006.

Linda Dianne Webb
LINDA DIANNE WEBB

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 8th day of November, 2006, by LINDA DIANNE WEBB, to certify which, witness my hand and official seal.

Margaret Orsagh
Notary Public Signature
Margaret Orsagh
Notary Public's Printed Name



Signed by the Commissioner this 6th day of December, 2006.

Wayne Thorburn
Wayne Thorburn, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 9 day of FEBRUARY, 2006⁷.

Shirley Ward
Shirley Ward, Chairperson
Texas Appraiser Licensing and Certification Board