

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO. 07-020

LAURA ACKER
TX-1327545-R

AGREED FINAL ORDER

On this the 19 day of September, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Laura Acker, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Laura Acker, a state certified residential real estate appraiser, holds certification number TX-1327545-R, and has been certified since November 18th, 1997.
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 December 3rd, 2004, Respondent appraised 1717 Windmill Circle, DeSoto, Texas ("the property") for the client, Colonial National Mortgage.
4. On October 2nd, 2006, the Board received a staff-initiated complaint against Respondent from Margarita White, in accordance with TEX. OCC. CODE § 1103.451. The complaint alleged that Respondent had committed possible USPAP violations in his real estate appraisal report on the property.
5. On or about October 10th, 2006 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 Standard 1-3(a) & 2-2(b)(ix) -- Failure to disclose and discuss specific zoning and the property's compliance;

- b. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to provide evidence in her report or work file to support her determination of site value;
- c. USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Failure to collect, verify, analyze and reconcile the cost new of improvements. Cost figures used were significantly higher than those indicated by standard industry data sources;
- d. USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to employ recognized methods and techniques in his cost approach analysis correctly;
- e. USPAP Standards 1-4(a) & 2-2(b)(ix) – Failure to collect, verify, analyze and reconcile comparable sales data adequately. The four sales used in the report were assemblages and not market sales. Even though there was readily available market sales data in MLS, some of which was even contained in Respondent's work file, these assemblages were incorrectly used instead of market sales. Additionally, the work file did not contain supporting documentation that verified the contract prices or closing statements for that assemblages that were used;
- f. USPAP Standards 1-1(a) & 1-4(a) – Respondent failed to employ recognized methods and techniques in his sales comparison analysis correctly;
- g. USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent failed to analyze all agreements of sale, options or listings of the property current as of the effective date of the appraisal;
- h. USPAP Standards 1-6(a) & (b) & 2-2(b)(ix) – Failure to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;
- i. USPAP Standard 1-1(a) – As noted above, Respondent failed to correctly employ recognize methods and techniques to produce a credible appraisal;
- j. USPAP Standard 1-1(b) – As detailed above, Respondent made several substantial errors of omission or commission that significantly affected the appraisal report;
- k. USPAP Standard 1-1(c) – For the above-noted reasons, Respondent rendered appraisal services that were certainly at least careless or negligent
- l. USPAP Standard 2-1(a) – Respondent's appraisal report was misleading to users of the report because of the above-noted deficiencies; and,
- m. USPAP Standard 2-1(b) – For the above-noted reasons, Respondent's appraisal report did not contain sufficient information to enable intended users to understand the report properly.

7. The Enforcement Division concluded that the Respondent violated 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: omitting relevant sales data in the sales comparison analysis; omitting important sales contract, listing and sales history information material to the appraisal assignment; using assemblage sales instead of true market sales in the sales comparison analysis; omitting any discussion of the reasoning behind the Respondent's determination of the property's highest and best use; misrepresenting or omitting cost per square foot data which was much lower than the cost per square foot figures ultimately used in the appraisal report.

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 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards Rules: 2-2(b); 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); 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 \$3,000.00;
 - a. Shall have her certification suspended for 12 months with this suspension being fully probated under the following conditions:
 - i. During the entire twelve month suspension Respondent shall submit 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;

- ii. Respondent shall timely remit payment of the administrative penalty, and timely complete all of the remedial coursework required in this Order;
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;
 3. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach;
 4. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies; and,
 5. 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 certification 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 certification.

Failure to complete the education required by 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 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 certification 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 19 day of September, 2007.

Laura Acker
LAURA ACKER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 19th day of September, 2007, by LAURA ACKER, to certify which, witness my hand and official seal.

Carolyn J. Green
Notary Public Signature



CAROLYN J GREEN
Notary Public's Printed Name

Signed by the Commissioner this 4th day of October, 2007.

Tim Irvine
Tim Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 5 day of Oct, 2007.

Larry Kokel
Larry Kokel, Chairperson
Texas Appraiser Licensing and Certification Board