

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

EDMOND MOORE BEATTY
TX-1330255-R

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DOCKETED COMPLAINT NO. 06-153

AGREED FINAL ORDER

On this the 5th day of October, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Edmond Moore Beatty, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Edmond Moore Beatty, a state certified residential real estate appraiser, holds certification number TX-1330255-R, and has been certified during all times material to this case.
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 March 15th, 2006, Respondent appraised real property located at 1222 W. Mill Street, New Braunfels, Texas 78130 ("the Mill Street property") for the client, Texas Hills Bank.
4. On June 6th, 2006, TALCB received a complaint against Respondent from Mark Lilely, the Assistant Vice President and Chief Appraiser at Flagstar Bank, in accordance with TEX. OCC. CODE § 1103.451. The complaint alleged that Respondent's appraisal report on the Mill Street property was inflated based on a field review appraisal Flagstar Bank had conducted.
5. On or about June 14th, 2006 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001 et. seq., and TEX. OCC. CODE CHPT. 1103, 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 for the Mill Street property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Competency Rule – Respondent lacked sufficient area/neighborhood competency to complete the appraisal assignment;
- ✓ b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the improvement(s) description adequately;
- c) USPAP Standards 1-3(a) & 2-2(b)(ix) – Respondent failed to identify and analyze market area trends, and neighborhood boundaries and influence;
- ✓ d) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile the cost new of improvements;
- ✓ e) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately;
- ✓ f) USPAP Standards 1-1(a) & 1-4(a) -- Respondent has failed to employ recognized methods and techniques correctly in his sales comparison approach analysis;
- ✓ g) USPAP Standard 2-2(b)(xi) – Respondent has failed to explain and support his exclusion of the income approach;
- ✓ h) USPAP Standards 1-5(b) & 2-2(b)(ix) – Respondent has failed to analyze all sales of the Mill Street property within 3 years prior to the effective date of his appraisal. A sale in September, 2005 for \$63,500.00 (a value significantly lower than the value determination reached in Respondent's report) was omitted from Respondent's report;
- ✓ i) USPAP Standard 1-1(a) – For the reasons detailed above, Respondent did not correctly employ recognized methods and techniques to produce a credible appraisal for the Mill Street property;
- ✓ j) USPAP Standard 1-1(b) – For the reasons detailed above, Respondent committed substantial errors of omission or commission that significantly affected his appraisal report for the Mill Street property; and,
- ✓ k) USPAP Standard 2-1(a) – For the reasons noted above, Respondent's appraisal report for the Mill Street property was misleading.

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 for the Mill Street property.

8. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of

material facts in the appraisal report of the Mill Street property. These material misrepresentations and omissions of material fact include: Omitting discussion and analysis of a prior sale of the Mill Street property which was for a significantly lower amount than the market value determination reached by Respondent; omitting discussion and analysis of important market area trends, and neighborhood boundaries and influence; omitting important, more appropriate comparable sales that were readily available in the Mill Street property's area and should have been used.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over these matters pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535.
2. Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Competency Rule; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 2-2(b)(xi); 1-5(b) & 2-2(b)(ix); 1-1(a); 1-1(b); and, 2-1(a).
3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in his Mill Street property appraisal report.

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

1. Have his certification suspended, with the suspension being fully probated for a one year period under the conditions outlined below:
 - a. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he 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 his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of any such request; and,
 - b. Respondent shall fully comply with the provisions of this Order.
2. Pay to the Board an Administrative Penalty of \$2,000.00, the payment of which shall be fully probated;
3. Attend and complete a minimum, 15 classroom-hour course in USPAP;

4. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
5. Attend and complete a minimum, 15 classroom-hour course in Highest and Best Use; and,
6. 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. 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 termination of Respondent's probation, the **IMMEDIATE IMPOSITION OF THE PROBATED ADMINISTRATIVE PENALTY** and the **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 AND IMPOSITION OF THE PROBATED ADMINISTRATIVE PENALTY 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 the latter of either the remainder of Respondent's probation period or such time as Respondent 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.

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Respondent, by signing this Agreed Final Order, waives the Respondent's right to a 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.

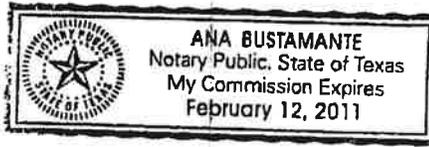
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 2nd day of October, 2007.

Edmond M Beatty
EDMOND MOORE BEATTY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 2nd day of October, 2007, by EDMOND MOORE BEATTY, to certify which, witness my hand and official seal.

Ana Bustamante
Notary Public Signature



Ana Bustamante
Notary Public's Printed Name

Signed by the Commissioner this 3rd day of October, 2007.

Timothy K. Irvine
Timothy K. 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