

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DON CARROLL BOX
TX-1322072-R

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DOCKETED COMPLAINT NO. 11-134
& 11-309

AGREED FINAL ORDER

On this the 30 day of August, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Don Carroll Box, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Don Carroll Box 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 Don Carroll Box is a state certified residential real estate appraiser and has been certified by the Board during all times material to these complaints.
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 real property located at 611 Mission Trail, Wimberley, Texas ("the property") on or about October 1st, 2010 and November 15th, 2010.
4. On or about November 11, 2010, and April 20th, 2011 complaints were filed with the Board based on allegations that the Respondent had produced appraisal reports that did not comply with the USPAP.
5. On or about January 7, 2011 and April 20th, 2011, 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 complainants. Respondent's responses to the complaints were received.

6. 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 reports for the property:

- a) Respondent failed to comply with the record keeping provisions of the Ethics Rule;
- b) Respondent failed to identify and report the site description adequately, including information regarding the property's location on the flood plain map, the property's source of water, and easements. With regard to easements, Respondent failed to identify and analyze the effect on use and value of this existing land use regulation and the physical adaptability of the real estate in light of the easement. Respondent also did not provide a brief summary of his supporting rationale for his determination of the property's highest and best use in light of the easement and its impact on the property;
- c) Respondent failed to collect, verify, analyze and reconcile comparable sales data and failed to employ recognized methods and techniques in the sales comparison approach; and,
- d) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent omitted material facts and made material misrepresentations in the appraisal report for the property as detailed above.

8. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

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 Rules: 1-2(e)(i) and 2-2(b)(iii); 1-2(e)(iv) and 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); 1-1(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 making material misrepresentations and omitting material facts.

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

- 1) Attend and complete a minimum, 7 classroom-hour course in quality control, site characteristics or easements;
 - a. No examination shall be required for this course;
- 2) Pay an administrative penalty of \$500 to the Board; and,
- 3) Comply with all future 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 six-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 takes and passes the required educational courses 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.

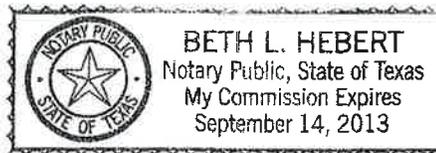
Signed this 30 day of August, 2011.

[Signature]
DON CARROLL BOX

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30 day of August, 2011, by DON CARROLL BOX, to certify which, witness my hand and official seal.

[Signature]
Notary Public Signature

BETH L. HEBERT
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 11th day of OCTOBER, 2011.

[Signature]
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 12th day of October, 2011.

[Signature]
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 12th day of October, 2011.

[Signature]
Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board