

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.
07-046

DAVID CURIEL
TX-1334009-R

AGREED FINAL ORDER

On this the 15th day of AUGUST, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of David Curiel (Respondent).

In order to conclude this matter, David Curiel 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 David Curiel is a Texas state certified residential real estate appraiser, holds certification number TX-1334009-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about October, 2006, Respondent appraised real property located at 3560 Whitetail Deer Drive, El Paso, Texas ("the property").
3. On or about November 20th, 2006, the Complainant, Mark McGrew, filed a complaint with the Board. The complaint alleged that the appraisal report was performed incorrectly and had errors that resulted in an undervaluation.
4. On or about January 8th, 2007 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.405 and 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 property.
 - a) Respondent communicated a misleading appraisal report for the property;

- b) Respondent failed to comply with supplemental standards that applied to the assignment;
- c) Respondent failed to identify and report the site description adequately by not providing the zoning classification and description;
- d) Respondent has 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;
- e) Respondent failed to provide a brief summary of his rationale for his determination of the property's highest and best use;
- f) Respondent failed to use an appropriate method or technique to develop his site value determination, cost new of improvements and depreciation;
- g) Respondent failed to analyze and reconcile sales comparison data properly and generally did not employ recognized methods and techniques by making inappropriate or failing to make appropriate adjustments for things such as design, site, seller concessions, and age;
- h) Respondent failed to analyze a prior sale of the property at a significantly lower price within 3 years prior to the effective date of his appraisal;
- i) Respondent misrepresented in his signed certification that he had personally inspected the property when he had not done so and instead sent an unlicensed person, John Brunswick, to the property to conduct the inspection; and,
- j) Respondent's report for the property contains substantial errors of commission or omission 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 et. seq.
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; USPAP Supplemental Standards Rule; USPAP Standards Rules: 1-2(e)(i) & 2-29b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii), 1-4(b)(ii) & 2-2(b)(viii), 1-4(b)(iii) & 2-2(b)(viii), 1-1(a) & 1-4(b), 1-1(a) & 1-4(a), 1-5(b) & 2-2(b)(vii), 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.

4. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(13) by failing to actively, personally, and diligently supervise and appraiser trainee under his sponsorship or any person not licensed or certified under the Act who assist the licensee or certificate holder in performing real estate appraiser services;

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

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- c. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
- d. Pay to the Board an administrative penalty of \$ 2,500.00; and,
- e. 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.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518.

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 7 day of August, 2008.

[Handwritten Signature]

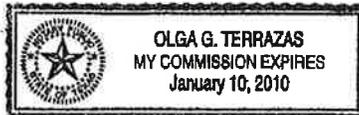
DAVID CUIEL

[Handwritten Signature]

LARRY BASKIND, ATTORNEY FOR RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 7 day of August, 2008, by DAVID CUIEL, to certify which, witness my hand and official seal.

[Handwritten Signature]
Notary Public Signature



Olga G. Terrazas
Notary Public's Printed Name

Signed by the Commissioner this 15th day of AUGUST, 2008.

[Handwritten Signature]
Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 15th day of AUGUST, 2008.

[Handwritten Signature]
Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board