

DEC 29 2006

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DOCKETED COMPLAINT NO.
05-008

BRYAN D. DIXSON
TX-1323461-G

FINAL ORDER

In accordance with the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. ("the Act"), the Texas Appraiser Licensing and Certification Board ("TALCB") has filed an Original Statement of Charges against Bryan D. Dixon, based upon his failure to comply with the Uniform Standards of Professional Appraisal Practice, his failure to properly supervise an individual assisting him in his work and making material misrepresentations or omitting material facts in his appraisal report. James Fletcher, TALCB Administrative Law Judge ("ALJ") now enters this final order in accordance with 22 TEX. ADMIN. CODE § 157.15 and TEX. OCC. CODE §§ 1103.508(b) and 1103.518.

I. DISCUSSION

1. Petitioner properly served Respondent with an Original Statement of Charges and Notice of Hearing in accordance with Tex. Occ. Code §§ 1103.502-1103.503 and 22 TEX. ADMIN. CODE § 157.9. The allegations related to violations of TALCB's rules.
2. Based upon Respondent's failure to appear and answer Petitioner's allegations and Petitioner having established jurisdiction and sufficient evidence of notice to Respondent, the ALJ rendered a default judgment against Respondent and hereby enters the foregoing order.

II. FINDINGS OF FACT

3. On Friday, December 15th, 2006 at 9:00 a.m. ALJ James Fletcher convened the hearing on this matter in Austin, Texas at the offices of the Texas Appraiser Licensing and Certification Board located at 1101 Camino La Costa, Austin, Texas 78752. The hearing concluded, and the record closed on that same day.
4. Petitioner, the Enforcement Division of TALCB, was represented by Troy Beaulieu who appeared on behalf of TALCB and announced ready.
5. Bryan D. Dixson ("Respondent") failed to appear and failed to answer the allegations Petitioner asserts in the Original Statement of Charges, nor has he filed any responsive pleading whatsoever.
6. Respondent held and currently holds certification number TX-1323461-G as a Texas state certified general real estate appraiser during all times material to Petitioner's allegations.
7. On or about July 21st, 2004, Respondent appraised the subject property located at 105 Lonesome Dove, Boerne, Texas ("the property") for the client, GMAC of Costa Mesa, California.
8. On or about September 23rd, 2004, and in accordance with TEX. OCC. CODE § 1103.451, TALCB received a consumer complaint against Respondent from Donald Enders of Boerne, Texas.
9. The complaint involved allegations that Respondent produced an appraisal report for the property that was false because the report claims Respondent personally inspected the interior and exterior areas of the property even though he did not actually do so.

10. On or about October 1st, 2004, Respondent was notified of the complaint and given an opportunity to respond. Respondent's response was received.
11. On or about November 2nd, 2006, Petitioner forwarded a Notice of Hearing along with a copy of this Original Statement of Charges to Respondent by certified mail in accordance with TEX. OCC. CODE §§ 1103.502-1103.503 and 22 TEX. ADMIN. CODE § 157.9.
12. Respondent has violated the Uniform Standards of Professional Appraisal Practice ("USPAP") detailed below. Respondent has also violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by misrepresenting that he had conducted an inspection of the interior of the property when he had not done so and certifying in his appraisal report for the property that he had not received any assistance in the performance of the appraisal assignment when Phillip Taylor had actually performed the measurement of the house and the interior inspection alone. Respondent also violated 22 TEX. ADMIN. CODE § 153.20(a)(13) by failing to actively, personally, and diligently supervise Phillip Taylor who was Respondent's trainee until March 2004 and who assisted in performing the real estate appraiser services for the property.
13. Respondent has violated the following provisions of USPAP in violation of 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) when he conducted his appraisal report for the property:
 - a. USPAP Ethics Rule – Respondent intentionally misrepresented that he personally inspected the interior of the subject property. Mr. Dixon also misrepresented he did not rely on assistance from anyone else in the performance of the appraisal even though Phillip Taylor measured the exterior of the house and conducted the interior inspection.

- b. USPAP Standard 2-2(b)(vi) – Respondent failed to identify the date of the report. The date of the report was not stated, but the report was signed on July 21, 2004 some 2.5 months after the effective date of the report even though Respondent's report indicates that the effective date of the appraisal and the date of the report were supposedly the same.
- c. USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a summary rationale for his determination of the subject property's highest and best use as required.
- d. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to use an appropriate method or technique to develop an opinion of the site value because he did not provide any support for his site value determination in his report or in his work file.
- e. USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements. Respondent did not provide the names of specific sources he used and his cost per square foot for the improvements is higher than indicated by Marshall Valuation Service. Respondent's square footage figures were some six hundred square feet larger than the figure provided by the Kendall County Appraisal District, yet Respondent never addressed this difference in his report.
- f. USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations. Respondent failed to make any adjustment for certain deficiencies Respondent noted in the report.
- g. USPAP Standards 1-1(a) & 1-4(b) – Respondent did not correctly employ accepted appraisal methods and techniques in his cost approach analysis.
- h. USPAP Standards 1-4(a) & 2-2(b)(ix) -- Respondent did not adequately collect, verify, analyze and reconcile comparable sales data. Adjustment for functional obsolescence was not applied to the comparable sales, and/or deducted from the final concluded value via the sales comparison approach.
- i. USPAP Standards 1-5(b) & 2-2(b)(ix) – Respondent inconsistently reports at one point that there were no known sales in the past 36 months, but at another point in the report claims that the property was sold in 2002.
- j. USPAP Standards 1-6(a) & 1-6(b) & 2-2(b)(ix) – Respondent failed to adequately reconcile his data and approaches to value which suggested \$741,654 via the cost approach, and \$738,000 via the sales comparison.

approach. Despite these figures, Respondent indicated a market value of \$280,000.00.

- k. USPAP Standard 1-1(a) – For the reasons noted above, Respondent did not correctly employ recognized methods and techniques to produce a credible appraisal report.
- l. USPAP Standard 1-1(b) – For the reasons outlined above, Respondent committed substantial errors of both omission and commission which seriously affected this appraisal report in a negative manner.
- m. USPAP Standard 1-1(c) – For the reasons outlined above, Respondent did not comply with USPAP because he rendered appraisal services that were careless or negligent.
- n. USPAP Standard 2-1(a) – Respondent's appraisal report is not accurate and is misleading to readers of the report.
- o. USPAP Standard 2-1(b) – Respondent's report did not enable intended users to properly understand the report because of the inadequate analysis and presentation Respondent provided in his report.

III. CONCLUSIONS OF LAW

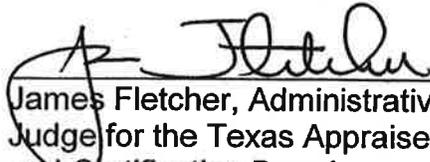
- 14. TALCB has jurisdiction of this case under the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.451-1103.5545.
- 15. Petitioner provided Respondent the requisite notice of hearing and statement of charges under Tex. Occ. Code §§ 1103.502-1103.503 and 22 TEX. ADMIN. CODE § 157.9.
- 16. Respondent has violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations or omissions of material fact in his appraisal report for the property.
- 17. Respondent has violated 22 TEX. ADMIN. CODE § 153.20(a)(13) by failing to actively, personally, and diligently supervise an individual who assisted him in the performance of his report for the property.

18. Respondent has violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to adhere to the Uniform Standards of Professional Appraisal Practice in effect at the time of his appraisal on the property.

IV. ORDER

19. Based upon the foregoing findings of fact and conclusions of law, Respondent Bryan D. Dixon's certification (TX-1323461-G) as a Texas state certified general real estate appraiser is hereby revoked. This revocation shall take effect (50) fifty days after the date of entry of this order.

20. All other relief not specifically granted in this order is denied. This order is final for purposes of appeal.


James Fletcher, Administrative Law
Judge for the Texas Appraiser Licensing
and Certification Board

Signed this 29th day of December 2006.