

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

ERIC ELDER  
TX-1336851-R

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DOCKETED COMPLAINT NO.  
11-200

**AGREED FINAL ORDER**

On the 17<sup>th</sup> day of August, 2012, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Eric Elder (the "Respondent").

In order to conclude this matter, Eric Elder 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 Eric Elder is and was a Texas state certified residential real estate appraiser who held and currently holds certification number TX-1336851-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 13 Kimberly Lane, Dallas, Texas 75287 ("the property") on or about December 31<sup>st</sup>, 2010.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent an produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter 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 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board. Respondent's response was received.
5. 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 report for the property. Specifically, Respondent's USPAP violations with respect to the property include:

- (a) Respondent failed to identify correctly and analyze the property's zoning and its neighborhood and market area economic supply and demand and market area trends and what effect these things had on use and value of the property;
- (b) Respondent failed to provide an analysis and summarize the rationale underlying his determination of the property's highest and best use;
- (c) Respondent failed to use an appropriate method or technique to develop an opinion of the site value and failed to provide support for the site value determination;
- (d) Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements and accrued depreciations, failed to provide support for such determinations and failed to employ recognized methods and techniques in his cost approach;
- (e) Respondent failed to collect, verify, analyze, and reconcile comparable sales data adequately, and failed to employ recognized methods and techniques in his sales comparison approach;
- (f) Respondent's report contains substantial errors of commission or omission as detailed above which impacted the credibility of the assignment results.

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

### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(a) & 2-2(b)(viii); 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); 1-1(a); 1-1(b); 1-1(c) and 2-1(a).
3. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

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

- a. Within 180 days of the effective date of this order (i.e. on or before February 18<sup>th</sup>, 2013), Respondent shall complete a total of sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by

the Board. The total sixteen (16) hours of mentorship must be completed under the following schedule and cover the following topics:

- i. The first 8 hours of mentorship must be completed within 60 days of the effective date of this order (i.e. on or before October 16<sup>th</sup>, 2012) and must cover the topic of sales comparison data analysis as indicated in subsection iii(3) below;
- ii. The remaining 8 hours of mentorship must be completed within 180 days of the effective date of this order (i.e. on or before February 18<sup>th</sup>, 2013); and,
- iii. The total sixteen (16) hours of mentorship must cover the following topics for at least the prescribed number of hours:
  - (1) 4 hours in site analysis;
  - (2) 4 hours in cost of improvements and depreciation analysis; and,
  - (3) 8 hours in sales comparison approach data analysis, in which 4 of those hours must concern analysis, methods and techniques related to adjustments

Upon completion of each of the eight (8) hour mentorship segments, Respondent shall submit to the Board within seven (7) days, on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours.

- b. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
- d. 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.

***Respondent is solely responsible for locating and scheduling classes and any required mentorship to timely satisfy the terms of this agreement and is urged to do so well in advance of any compliance deadlines to ensure adequate time for completion of the courses in the event of course cancellation or rescheduling by the course provider or mentor.***

***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. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with the terms of this order 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, ANY MOTION FOR REHEARING, 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.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS OR AFFIDAVITS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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 3 day of August, 2012.

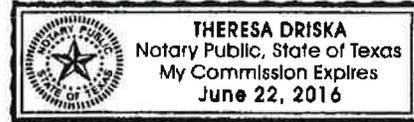
  
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ERIC ELDER

*Ted Whitmer*

TED WHITMER, ATTORNEY FOR  
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3 day of  
August, 2012, by ERIC ELDER, to certify which, witness my hand and official  
seal.

*Theresa Driska*  
Notary Public Signature



Theresa Driska  
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 17<sup>th</sup> day of  
August, 2012.

*Troy Beaulieu*  
Troy Beaulieu, TALCB Managing Attorney

Signed by the Commissioner this 17<sup>th</sup> day of August, 2012.

*Douglas Oldmixon*  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17<sup>th</sup> day of August, 2012.

*Luis De La Garza*  
Luis De La Garza, Chairperson  
Texas Appraiser Licensing and Certification Board