

TEXAS APPRAISER LICENSING§
AND CERTIFICATION BOARD

vs.

DONALD LEE FERMAN
TX-1329518-L

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DOCKETED COMPLAINT NO. 09-264

AGREED FINAL ORDER

On this the _____ day of _____, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Donald Lee Ferman (Respondent).

In order to conclude this matter Donald Lee Ferman 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, Donald Lee Ferman, is a state licensed real estate appraiser, holds license number TX-1329518-L, and has been licensed by the Board during all times material to this complaint.
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. On or about December 27th, 2007, the Respondent appraised property located at 4310 Metropolitan Avenue, Dallas, Dallas County, Texas ("the Metropolitan property").
4. Thereafter a staff-initiated complaint was filed with the Board based on allegations that the Respondent had produced an appraisal report that contained various USPAP violations.
5. On or about July 16th, 2009, 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 Complainant. Respondent's response to the complaint was received.

4. 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:

- a) Respondent failed to identify and report improvement(s) description adequately and did not consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts;
- b) Respondent 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 and failed to provide a brief summary of his basis and rationale for his highest and best use determination;
- c) Respondent failed to explain and support the exclusion of the cost approach and did not use an appropriate method or technique to develop an opinion of the site value;
- d) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements, site value and accrued depreciations, and did not 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 failed reconcile the quality and quantity of the data within the approaches used and the applicability or suitability of the approaches; and,
- g) Respondent's report contained substantial errors of commission or omission which resulted in a misleading appraisal report.

5. Respondent omitted material facts and made material misrepresentations in the appraisal report for the property 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 Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 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); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-6(a) & (b) and 2-2(b)(viii); 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:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Within 6 months of the effective date of this order, Respondent shall complete 3 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within 6 months of the effective date of this order, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;
- c. 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 **SIX 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. 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 required by 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 required terms 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 satisfies that portion of the Agreed Final Order which she has defaulted on 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 30th day of July, 2011.

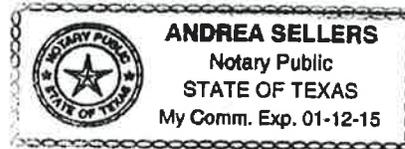


DONALD LEE FERMAN

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30th day of July, 2011, by DONALD LEE FERMAN, to certify which, witness my hand and official seal.



Notary Public Signature



Andrea Sellers

Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 19th day of August, 2011.



Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 19th day of August, 2011.



Douglas E. Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 19th day of August, 2011.



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