

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

vs.

RAMIRO GARZA, JR.
TX-1323922-R

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DOCKETED COMPLAINT NO.
07-008

AGREED FINAL ORDER

On this the 14 day of November, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Ramiro Garza, Jr. (Respondent).

In order to conclude this matter, Ramiro Garza, Jr. 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 Ramiro Garza, Jr. is a Texas state certified residential real estate appraiser, holds certification number TX-1323922-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about May 4th, 2005, May 11th, 2005, May 19th, 2005, July 3rd, 2005 and August 13th, 2005, Respondent appraised real properties, respectively, located at 3431 Lazy Palm Drive South, Harlingen, Texas 78552 ("the Lazy property"), 1433 East Harrison Street, Brownsville, Texas 78520 ("the Harrison property"), 1305 South Rodriguez Street, Harlingen, Texas 78552 ("the Rodriguez property"), 2217 East Gartuck Circle, Harlingen, Texas 78552 ("the 2217 Gartuck property"), and 2213 East Gartuck, Harlingen, Texas 78552 ("the 2213 Gartuck property") (collectively "the properties").
3. On or about October 3rd, 2006, the Complainant, Jack McComb, an investigator with the Board, filed a staff-initiated complaint with the Board. The complaint was based on information obtained by Jane Hall, the Deputy Director of the Denver Homeownership Center at the United States Department of Housing and Urban Development, and alleged that the appraisal reports were performed incorrectly and had numerous violations of the Uniform Standards of Professional Appraisal Practice.
4. On or about October 9th, 2006, 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.

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5. Respondent violated 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 properties

- a) Respondent failed to identify his source for his market value determination in his appraisal reports on the properties;
- b) Respondent did not state the use of the existing real estate as of the date of value in his appraisal reports for the properties;
- c) Respondent failed to provide a brief summary of his determination of the properties' highest and best use;
- d) Respondent failed to state extraordinary assumptions and hypothetical conditions clearly and conspicuously;
- e) Respondent only used a sales comparison approach and thus failed to use all appropriate approaches to value;
- f) Respondent failed to comply with supplemental standards applicable to HUD appraisal assignments with respect to the listing and sales history of the properties appraised;
- g) Respondent was negligent by failing to adjust for sales concessions / down payment assistance, not selecting the most appropriate and available comparable properties and not making appropriate adjustments to the comparables used in his sales comparison approach; and,
- h) Respondent has omitted material facts as detailed above from his appraisal reports for the properties.

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 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Supplemental Standards Rule; USPAP Standards Rules: 2-2(b)(v); 2-2(b)(ix); 2-2(b)(x); 2-2(b)(viii); and, 1-1(c).
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:

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- a. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach or Residential Case Studies;
- b. Pay to the Board an administrative penalty of \$500.00;
- c. 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.

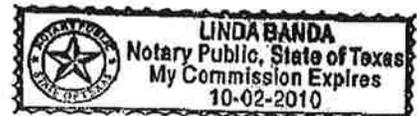
Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published 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 4 day of November, 2008.


RAMIRO GARZA, JR.

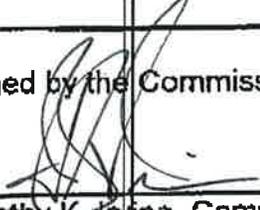
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 4th day of November, 2008, by RAMIRO GARZA, JR., to certify which, witness my hand and official seal.




Notary Public Signature

Linda Banda
Notary Public's Printed Name

Signed by the Commissioner this 12th day of December, 2008.


Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 12th day of December, 2008.


Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board