

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.
05-006

SUSAN HENNESSEY
TX-1328238-L

FINAL AGREED ORDER

On this the 20th day of October, 2006, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Susan Hennessey, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Susan Hennessey is a state licensed real estate appraiser, holds license number TX-1328238-L, and has been licensed by the Board since October 27th, 1998.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about May 25th, 2004, the Respondent appraised the subject property located at 820 Brooks Ave., Schertz, Guadalupe County, Texas, for the client, Bank One N.A. of San Antonio, Texas.
4. On or about September 7th, 2004, the Complainant, Ms. Lisa M. Kisley, complained to the Board alleging that the Respondent had produced an appraisal report containing errors and omissions, and that the Respondent did not inspect the property.
5. On or about October 1st, 2004, the Board, in accordance with the mandate of the Texas Appraiser Licensing and Certification Act and Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, 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 was received.
6. The Enforcement Division has concluded that the Respondent's appraisal report violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Departure Rule – The cost approach was not required, but Respondent did not invoke the Departure Rule;
 - b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to adequately identify and report the site description. Respondent erroneously states the subject site is 1.04 acres when it is actually 0.32 acres;
 - c) USPAP Standards 1-2(e)(v) & 2-2(b)(ix) – Respondent failed to report the specific zoning and only made a generic and insufficient reference that it was zoned “residential”;
 - d) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a brief summary and supporting rationale for her determination of the subject property’s highest and best use;
 - e) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent did not provide support for her site value determination and her unsupported value was some two times larger than the site value indicated by the Guadalupe County appraisal district;
 - f) USPAP Standards 1-1(a) & 1-4(b) – Because she did not provide support for her determination of site value, Respondent has not correctly employed accepted appraisal methods and techniques to estimate the value of the subject property’s site;
 - g) USPAP Standards 1-4(c)(i) & 2-2(b)(ix) -- Respondent failed to collect, verify, analyze and reconcile comparable rental data for subject rent. Respondent estimated rent for the subject at \$900/month, but did not provide any summary rationale of how she reached this conclusion. Despite these statements Respondent’s report then states that there was insufficient rental data to develop the income approach;
 - h) USPAP Standards 2-3 & 2-2(b)(xii) – Respondent signed a certification in her report indicating that she personally inspected the interior and exterior of the subject property, but did not conduct the inspection. Someone other than Respondent conducted the inspection, yet Respondent is only a state licensed appraiser and could not sponsor any trainees. Furthermore, Respondent failed to indicate in her report who did conduct the inspection.
7. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of the appraisal report.

8. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making a material misrepresentations or omissions of material fact in her report. Respondent made material misrepresentations in her report by signing the certification as well as the HUD inspection section of the report, both indicating that she had personally inspected the interior and exterior of the subject property when she knew she had not done so.

CONCLUSIONS OF LAW

The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535 (Vernon 2005).

1. Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Departure Rule; Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(v) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(c)(i) & 2-2(b)(ix); and, 2-3 & 2-2(b)(xii).

2. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of the appraisal report.

3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations or omissions of material fact in her report.

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

- a) Pay to the Board an Administrative Penalty of \$1,500.00; ✓
- b) Shall have her license suspended for 1 year with this suspension being fully probated under the condition that Respondent fully comply with all the terms of this Order;
- c) Attend and complete a minimum, 15 classroom-hour course in USPAP; and, ✓
- d) Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in

IMMEDIATE SUSPENSION of Respondent's license pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

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. 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 licensure.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational 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 or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

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.

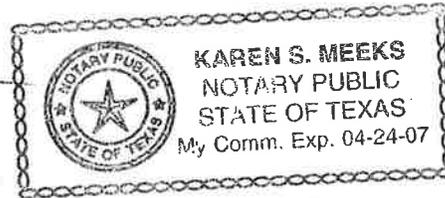
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 28th day of SEPTEMBER, 2006.

[Signature]
SUSAN HENNESSEY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28 day of September, 2006, by SUSAN HENNESSEY, to certify which, witness my hand and official seal.

[Signature]
Notary Public Signature
KAREN MEEKS
Notary Public's Printed Name



Signed by the Commissioner this 19th day of October, 2006.

[Signature]
Wayne Thorburn, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20th day of October, 2006.

[Signature]
Shirley Ward, Chairperson
Texas Appraiser Licensing and Certification Board