

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO. 05-080

THOMAS EUGENE HICKMAN
TX-1330224-R

AGREED FINAL ORDER

On this the 5th day of October, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Thomas Eugene Hickman, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Thomas Eugene Hickman, a state certified residential real estate appraiser, holds certification number TX-1330224-R, and has been certified during all times material to the above-noted complaint case.
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 December 9th, 2002, Respondent appraised the real property located at 101 Crescent Drive, Buda, Hays County, Texas 78610 ("the property") or the client, Independent Mortgage Company of Austin, Texas.
4. On February 16th, 2005, TALCB received a complaint against Respondent from Spring Sun, in accordance with TEX. OCC. CODE § 1103.451. The complainant alleged that Respondent's appraisal report on the property was fraudulent, used inappropriate comparable sales and contained incorrect photographs.
5. On or about March 3rd, 2005 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001 et. seq., 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 concluded that the Respondent's appraisal report for the property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Standards 1-2(c) & 2-2(b)(v) – Respondent has failed to identify the intended use of his opinions and conclusions. The report and work file contain conflicting and confusing information regarding the intended use and intended user of the appraisal report;
- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the improvement(s) description adequately;
- c) USPAP Standards 1-2(e)(iii), 1-4(g) & 2-2(b)(ix) – Respondent failed to identify and consider the effect on value of any personal property, trade fixtures or intangible items that were not real property but were included in the appraisal;
- d) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a brief summary of his rationale for his determination of the property's highest and best use;
- e) USPAP Standard 2-2(b)(xi) – Respondent failed to explain and support his exclusion of the cost approach;
- f) USPAP Standard 1-4(b)(i) & 2-2(b)(ix) – Respondent did not use an appropriate method or technique to develop his opinion of the property's site value;
- g) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements properly;
- h) USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent did not collect, verify, analyze and reconcile accrued depreciations;
- i) USPAP Standards 1-1(a) & 1-4(b) – Respondent did not correctly employ recognized methods and techniques in his cost approach analysis;
- j) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent did not collect, verify, analyze and reconcile the comparable sales data adequately. He used inappropriate comparable sales that were superior to the property in lot size, age and quality despite the ready availability of far more similar comparable sales in the property's immediate neighborhood; Respondent also made inadequate and unsupported adjustments for lot size differences in number of bathrooms, the garage, and other amenities such as sprinkler systems, decks and hot tubs; Respondent also included incorrect photos of the comparables that he actually used;
- k) USPAP Standards 1-1(a) & 1-4(a) – Respondent did not correctly employ recognized methods and techniques in his sales comparison analysis for the reasons noted above;

- i) USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent failed to analyze all agreements of sale and failed to analyze the prior listing history of the property. The contract of sale was not contained in his work file. Additionally he failed to disclose and analyze the listing history for the property even though it had been listed the year prior to the date of the appraisal for lower than Respondent's determination of market value;
- m) USPAP Standard 1-1(a) – For the above-noted reasons, Respondent did not employ recognized methods and techniques to produce a credible appraisal report;
- n) USPAP Standard 1-1(b) – Respondent committed substantial errors of omission or commission as outlined above;
- o) USPAP Standard 1-1(c) – Respondent was careless or negligent in rendering appraisal services as noted above; and,
- p) USPAP Standard 2-1(a) – Respondent produced an appraisal report that was inaccurate and misleading to its intended user.

7. The Enforcement Division 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 his appraisal report for the property.

8. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in his appraisal report for the property. These material misrepresentations and omissions of material fact for include: omitting discussion and analysis of the contract for sale and the prior listing history of the property; misrepresenting the propriety of the comparable sales used and omitting more appropriate sales; misrepresenting the comparable sales used due to use of incorrect photos; and, omitting any discussion of Respondent's rationale for his determination of the property's highest and best use.

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 §§ 1103.451–1103.5535.
2. Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards 1-2(c) & 2-2(b)(v); 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iii), 1-4(g) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 2-2(b)(xi); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 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 omissions of material facts in his appraisal report for the property.

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

1. Have his certification revoked, with the revocation being fully probated for a two year period under the conditions outlined below:
 - a. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months during the entire period of probation and shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of any such request;
 - b. Pay to the Board an Administrative Penalty of \$3,000.00, which shall be made in twenty four equal, monthly installments of \$125.00, with the first payment coming due on Friday, October 19th, 2007 and the remaining payments coming due on the same date of each subsequent month until the entire penalty is paid in full. Timely delivery of all installment payments shall be a condition of Respondent's probation; and,
 - c. Respondent shall sponsor no additional appraiser trainees during the entire period of his two year probation period; and,
 - d. Respondent shall fully comply with the provisions of this Order.
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;
3. Attend and complete a minimum, 15 classroom-hour course in Sales Comparison;
4. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
5. Attend and complete a minimum, 4 classroom-hour course in Appraisal Fraud (no examination is required for this course) and,

6. 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 according to the terms of this Agreed Final Order. Failure to timely pay and timely deliver any installment payment of the administrative penalty within the time allotted shall result in termination of Respondent's probation and the **IMMEDIATE REVOCATION** of Respondent's certification 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. 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.

Failure to timely submit the required appraisal experience log on a form prescribed by the Board shall result in termination of Respondent's probation and the **IMMEDIATE REVOCATION** of Respondent's certification pursuant to notice to Respondent from the Board indicating that Respondent has not timely submitted the required appraisal experience log.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in termination of Respondent's probation and **IMMEDIATE REVOCATION** of the Respondent's certification 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 REVOCATION 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 revocation or lifting of probation by certified mail, return receipt requested, to the last known address as provided 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.

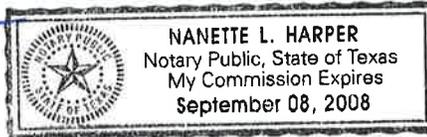
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 9th day of September, 2007.

Thomas E. Hickman
THOMAS EUGENE HICKMAN

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 6th day of September, 2007, by THOMAS EUGENE HICKMAN, to certify which, witness my hand and official seal.

Nanette L. Harper
Notary Public Signature
Nanette L. Harper
Notary Public's Printed Name



Signed by the Commissioner this 4th day of October, 2007.

Tim Irvine
Tim Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 5 day of Oct, 2007.

Larry Kokel
Larry Kokel, Chairperson
Texas Appraiser Licensing and Certification Board