

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

SHARI L. KOWNSLAR
TX-1322658-R

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DOCKETED COMPLAINT NO. 03-051

AGREED FINAL 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 SHARI L. KOWNSLAR, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent SHARI L. KOWNSLAR is a STATE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER, holds CERTIFICATION number TX-1322658-R, and has been CERTIFIED by the Board since February 26, 1992.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2005) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2005) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about September 6, 2001, the Respondent appraised the subject property located at 9818 Southwick Drive, Humble, Harris County, Texas, for the client, Sun Stone Mortgage.
4. On or about September 17, 2003, the Complainant, Mr. John Straub of Union Planters Mortgage of Hattiesburg, Mississippi, complained to the Board alleging that the Respondent had produced an appraisal report with a value conclusion significantly higher than a later appraisal report obtained by Union Planters Mortgage due to the loan being defaulted.
5. On or about October 14, 2003, the Board, in accordance with the mandate of the 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 concluded that the Respondent's appraisal report violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- (1) SR 1-2(e)(i) & 2-2(b)(iii). The appraiser reports the lot size as 18,848 square feet when the Harris County Appraisal District (HCAD) records report only 14,848 square feet. A survey from a later appraisal shows the lot size to be 15,054 square feet. The subject property is situated on two lots that are listed separately in county records. This was not reported or discussed in the appraisal report.
- (2) SR 1-4(b)(i) & 2-2(b)(ix). The appraiser states that area land sales and HCAD records were used to determine an opinion of site value. However, no sales data was included in the appraiser's work file and according to HCAD, the subject land value was assessed in 2001 at \$25,600 not \$40,000 as reported in the Cost Approach.
- (3) SR 1-4(b)(iii) & 2-2(b)(ix). The appraiser states that there is functional obsolescence attributed to the swimming pool of \$5,448. This does not adequately reflect functional obsolescence given the value of the pool in the sales comparison approach and the estimated cost new less depreciation.
- (4) SR 1-1(a) & 1-4(b). The method of estimating functional obsolescence was not correctly employed.
- (5) SR 1-4(a) & 2-2(b)(ix). All four comparable sales utilized were selected from outside the subject property's immediate subdivision from a neighborhood with a higher predominate value of homes. Location adjustments were made, however, no data to support the adjustment was included in the report or found in the work file. A review of HCAD records revealed that the location adjustments were inadequate to accurately reflect value differences. The subject property's land value was assessed at \$25,600 while the land value of the comparables ranged from \$28,500 to \$48,700. Data obtained from a local appraiser revealed that since 1999 there were 115 sales in the subject property's neighborhood for \$59,900 to \$209,900. A negative adjustment for external obsolescence was made in the cost approach, however, no adjustment was made in the sales comparison approach. All comparable sales received adjustments for differences in fireplaces, however, these adjustments were inconsistent and appeared excessive for this feature. An addendum with additional sales and/or listings from the subject property's immediate neighborhood was included, however, these sales do not support the final opinion of value. The closing date for Sale #7 was reported incorrectly.
- (6) SR 1-1(a) & 1-4(a). There were no adjustments in the sales comparison approach to reflect the subject's external obsolescence. While external obsolescence was attributed in the report to close proximity to commercial influences, the appraiser also states that commercial properties do not appear to have a major impact on the marketability.

- (7) SR 1-5(a) & 2-2(b)(ix). On page 1 of the appraisal report, it states a sales price of \$275,000 and date of sale as "pending". However, on page 2 of the multi-purpose addendum, it states that the "subject property is not under contract". On page 1 of the multi-purpose addendum, it states that "According to MLS, the subject property has not been offered for sale in the past 12 months". However, included in the appraiser's work file is an MLS printout dated September 12, 2001 (the date the report was signed), showing an active listing in MLS of the subject property at \$226,500. There were no comments or analysis regarding the listing, the pending sale, or the significant difference between the list price of \$226,500, the contract price of \$275,000, and the opinion of value of \$293,000.
- (8) SR 1-1(a). The appraiser incorrectly calculated functional obsolescence and did not adjust for external obsolescence. All sales were selected from a superior subdivision with no sales from the subject property's immediate neighborhood.
- (9) SR 1-1(b). The appraiser incorrectly reported site size, no adjustments were made in the sales comparison approach for external obsolescence, and inadequate adjustments were made for location.
- (10) SR 2-1(a). The use of sales from a superior neighborhood is misleading to the reader.
- (11) SR 2-1(b). Land value in the cost approach was unsupported and the contradictory statements in the report regarding the listing and sales contract prevents the user from understanding the report.

7. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§153.20(a)(3) and §155.1(a) of the Rules of the Board by failing to conform to USPAP in effect at the time of the appraisal report.

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 (Vernon 2005).
2. Respondent may have violated the following Rules of USPAP as prohibited by 22 TEX. ADMIN. CODE §§153.20(a)(3) and §155.1(a): Standards Rules: Ethics Rule, 1-1(a), 1-1(b), 1-2(e)(i), 1-4(a), 1-4(b), 1-4(b)(i), 1-4(b)(iii), 1-5(a), 2-1(a), 2-1(b), 2-2(b)(iii), and 2-2(b)(ix).
3. Respondent may have 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.

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

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing;
- c. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
- d. Attend and complete a minimum, 15 classroom-hour course in Residential Highest and Best Use Analysis;
- e. Attend and complete a minimum, 15 classroom-hour course in Market Data / Sales Comparison Approach and / or Case Studies; and,
- f. 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 **TWENTY-FOUR 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 twenty-four 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 DISCIPLINARY ACTION** per 22 TEX. ADMIN. CODE § 153.20(a)(21).

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.

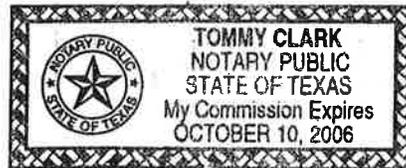
Signed this 25 day of August, 2006.

[Signature]
SHARI L. KOWNSLAR

[Signature]
JESSICA SCOTT, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 25th day of AUG, 2006, by SHARI L. KOWNSLAR, to certify which, witness my hand and official seal.

[Signature]
Notary Public Signature
Tommy Clark
Notary Public's Printed Name



Signed by the Commissioner this 25th day of AUG, 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