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vs.

DOCKETED COMPLAINT NO.
10-027

MICHAEL HENRY LARA
TX-1337757-L

AGREED FINAL ORDER

On this the 18 day of August, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Michael Henry Lara (Respondent).

In order to conclude this matter Michael Henry Lara neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein but 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 Michael Henry Lara is a Texas state licensed real estate appraiser, holds license number TX-1337757-L, and has been certified by the Board during all times material to the above-noted complaint case.
2. Respondent appraised 1709 Bruce Devlin Drive, El Paso, Texas 79935 ("the Bruce Devlin property") on or about December 17th, 2008.
3. Respondent appraised 2121 Sea Palm Drive, El Paso, Texas 79936 ("the Sea Palm property") on or about March 21st, 2007.
4. Thereafter a complaint relating to each of these real estate appraisal reports were filed with the Board. The complaints alleged that Respondent failed to comply with the Uniform Standards of Professional Appraisal Practice ("USPAP") in his completion of these reports.
5. After receipt of each complaint, 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 was received.

6. 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 Bruce Devlin property:

- a) Respondent failed to comply with the ethics and record keeping provisions of the Ethics Rule;
- b) Respondent failed to identify and report improvement(s) description properly and 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;
- c) Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- d) Respondent failed to use an appropriate method or technique to develop an opinion of the site value;
- e) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements and failed to employ recognized methods and techniques in his cost approach;
- f) Respondent failed to collect, verify, analyze and reconcile comparable sales data and failed to employ recognized methods and techniques in his sales comparison approach; and,
- g) Respondent's report contained substantial errors of commission or omission which resulted in a misleading and unreliable appraisal report.

7. 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 Sea Palm property:

- a) Respondent failed to comply with the conduct and record-keeping provisions of the Ethics Rule;
- b) Respondent failed to clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limiting condition that directly affected his analysis, opinions, and conclusions;
- c) Respondent failed to identify and report the improvement(s) description adequately;
- d) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate market area trends;

- e) Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
 - f) Respondent failed to use an appropriate method or technique to develop an opinion of the site value;
 - g) Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements and accrued depreciations, and failed to employ recognized methods and techniques in his cost approach;
 - h) Respondent failed to employ recognized methods and techniques in his sales comparison approach;
 - i) Respondent's report contained substantial errors of commission or omission as detailed above, all of which resulted in a misleading and unreliable appraisal report.
8. Respondent omitted material facts in the appraisal reports 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 Ethics Rule (record keeping provisions); USPAP Standards Rules: 1-2(f) or 1-2(g) & 2-1(c); 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 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); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by 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. Attend and complete a minimum, 7 classroom-hour course **Whatever Happened to Quality Assurance in Residential Appraisals: Avoiding Risky Appraisals and Risky Loans**;
 - i. No examination shall be required for this course; and
- 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 **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 licensure. 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 license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the required terms of this Agreed Final Order.

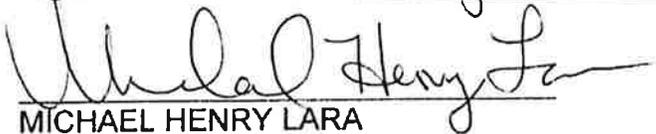
ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

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 license 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 he 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 18 day of August, 2010.


MICHAEL HENRY LARA

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 18th day of August, 2010, by MICHAEL HENRY LARA, to certify which, witness my hand and official seal.



Rosa A. Chacon
Notary Public Signature

Rosa A. Chacon
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 17TH day of NOVEMBER, 2010.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 19 day of Nov, 2010.

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

Approved by the Board and Signed this 19 day of Nov, 2010.

James B. Ratliff
James B. Ratliff, Chairperson
Texas Appraiser Licensing and Certification Board