

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

TYNA THOMPSON MARSHALL
TX-1324486-R

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DOCKETED COMPLAINT NO.
10-072

AGREED FINAL ORDER

On the May 13 day of, 2012, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Tyna Thompson Marshall (Respondent).

In order to conclude this matter Tyna Thompson Marshall agrees to this Order. However, she denies the truth of any adverse Findings of Fact and Conclusions of Law contained herein.

The Board with the agreement of Respondent 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, Tyna Thompson Marshall, is a certified residential appraiser who currently holds TX-1324486-R and held that certification number during all times material to the above-noted complaint case.
2. Respondent appraised 2726 Burchill Road, Fort Worth, TX 76105 (the "property") on or about May 11, 2007.
3. Thereafter, a complaint relating to this real estate appraisal report was filed with the Board. The complaints alleged that Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice ("USPAP") and not completed properly.
4. After receipt of the 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 to the complaint was received.
5. Respondent was alleged to have 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 were alleged did not conform to USPAP in effect at the time of the appraisal report for the property:

- a. USPAP Ethics Rule (record keeping) – Respondent was alleged to have violated the record keeping provisions of the Ethics Rule because she failed to maintain a work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provisions;
- b. USPAP Standards 1-3(a) & 2-2(b)(viii) – Respondent was alleged to have failed to provide support for her opinions and conclusions reported in the Neighborhood section of the report;
- c. USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent was alleged to have failed to develop an opinion of the highest and best use;
- d. USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent was alleged to have failed to use an appropriate method or technique to develop an opinion of the site value;
- e. USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) – Respondent was alleged to have failed to collect, verify, analyze and reconcile the cost new of improvements;
- f. USPAP Standards 1-1(a) & 1-4(b) – For the allegations above, it was alleged that Respondent failed to employ recognized methods and techniques in her cost approach;
- g. USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent is alleged to have failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in her sales comparison approach. Generally, it was further alleged that Respondent used inappropriate properties as comparable sales (in terms of salient market characteristics) and went outside of the property's area even though more appropriate, more similar sales were readily available in the immediate area and should have been used;
- h. USPAP Standards 1-4(c)(i) & 2-2(b)(viii) – Respondent is alleged to have failed to collect, verify, analyze and reconcile comparable rental data and / or the potential earnings capacity of the property to determine the gross income potential of the property;
- i. USPAP Standards 1-4(c)(ii) & 2-2(b)(viii) – Respondent is alleged to have failed to collect, verify, analyze and reconciled comparable operating expenses;
- j. USPAP Standards 1-4(c)(iii) & 2-2(b)(viii) – Respondent is alleged to have failed to collect, verify, analyze and reconcile comparable data to estimate capitalization and / or discount rates;

k. USPAP Standards 1-4(c)(iv) & 2-2(b)(viii) – Respondent is alleged to have failed to base projections of future rent or income potential and expenses on reasonable clear and appropriate evidence;

l. USPAP Standards 1-1(a) & 1-4(c) – For the reasons detailed above, Respondent was alleged to have failed to employ recognized methods and techniques correctly in her income approach;

m. USPAP Standard 1-5(a) & 2-2(b)(viii) – Respondent is alleged to have failed to analyze all agreements of sale, options or listings of the subject property current as of the effective date of the appraisal;

n. USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent is alleged to have failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches; and,

o. USPAP Standards 1-1(a), 1-1(b), 1-1(c); 2-1(a); and, 2-1(b) – For the reasons detailed above, Respondent was alleged to have produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This issue alleged to have resulted in an inflated appraisal report that was not credible or reliable.

6. Respondent was alleged to have omitted material facts and made material misrepresentations as described in more detail above.

7. Bona fide disputes and controversies exist between the parties as to the issues in this matter both factual and legal.

8. The parties desire to compromise and settle all claims of any kind in this matter. They intend that the signing and acceptance of this Agreement is a final settlement of all claims or potential claims and defense that are or could have been made herein.

9. The parties agree that nothing herein shall be deemed or considered an admission of fact or an adjudication of law. The parties desire to resolve this matter without the necessity of further time and expense in further proceedings and Respondent agrees to this Order.

10. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

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. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

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

a During a one (1) year review period, beginning on May 18th, 2012, the effective date of this order, Respondent shall submit to the Board, within seven (7) days of completion of six (6) months, an appraisal experience log on a form prescribed by the Board. The logs shall be submitted every six (6) months for one (1) year (i.e. November 18th, 2012 and May 18th, 2013) and shall detail all real estate appraisal activities she has conducted during the previous six (6) month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate;

i Upon request from the Board, Respondent shall provide copies of her appraisal reports and work files for any appraisal assignments she performs during the course of this period of review within the twenty (20) days of notice of any such request;

b Attend and complete a minimum, fifteen (15) classroom-hour course in the income approach, within twelve (12) months of the effective date of this order;

c Pay to the Board an administrative penalty of Five Hundred (\$500.00) Dollars, within twenty (20) days of the effective date of this order (i.e. on or before June 7th, 2012);

d Fully and timely comply with all of the provisions of this Agreed Final Order; and,

e 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 (12) MONTHS** of the date of this Order (i.e. on or before May 18th, 2013) 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. ***Respondent is solely responsible for locating and scheduling classes and any required mentorship to timely satisfy the terms of this agreement and is urged to do so well in advance of any compliance deadlines to ensure adequate time for completion of the courses in the event of course cancellation or rescheduling by the course provider or mentor.***

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY (20) DAYS** of the date of this Agreed Final Order (i.e. on or before June 7th, 2012).

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE REVOCATION of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the 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 revocation by certified mail, return receipt requested, to the last known address as provided to the Board.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, 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.

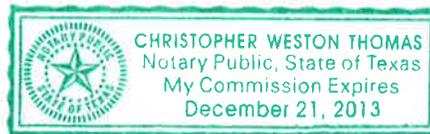
Signed this 9 day of May, 2012.

Tyna Thompson Marshall
TYNA THOMPSON MARSHALL

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 9 day of May, 2012, by TYNA THOMPSON MARSHALL, to certify which, witness my hand and official seal.

Chris Thomas
Notary Public Signature

Chris Thomas
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 17th day of May, 2012.



Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this 18 day of May, 2012.



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

Approved by the Board and Signed this 18 day of May, 2012.



Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board