

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

KEVIN MURPHY
TX-1335039-L (EXPIRED)
TX-1337138-R

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DOCKETED COMPLAINT NO.
09-068

AGREED FINAL ORDER

On this the 12th day of August, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Kevin Murphy (Respondent).

In order to conclude this matter Kevin Murphy neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further 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 Kevin Murphy was a Texas state licensed real estate appraiser, now holds state certification number TX-1337138, and has been licensed or certified by the Board during all times material to the above-noted complaint case.
2. On or about January 18th, 2008, Respondent appraised real property located at 3718 Colley Street, Houston, Texas 77093-7104 ("the property").
3. On or about December 1st, 2008, the Complainant, Mark Liley, filed a complaint with the Board, which was based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.
4. On or about December 8th, 2008 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 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 property:

- a) Respondent failed to comply with the record keeping provision of the USPAP Ethics Rule;
- b) 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 and market area trends;
- c) Respondent failed to provide a brief summary of his supporting rationale for his determination of the property's highest and best use;
- d) Respondent failed to provide support for his analysis and conclusions concerning site value, failed to verify, analyze and reconcile the cost new of improvements, and failed to employ recognized methods and techniques in his cost approach analysis;
- e) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques in his sales comparison approach;
- f) Respondent failed to explain his exclusion of the income approach ;and,
- g) Respondent's report for the property contains substantial errors of omission and commission as detailed above which resulted in a misleading appraisal report for the property which was not credible.

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 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Standards Rules: 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); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

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, 15 classroom-hour course in the Cost Approach;
- c. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach or Residential Case Studies; and,

- d. 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 or certification.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518.

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 28th day of August, 2009.



KEVIN MURPHY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28th day of August, 2009, by KEVIN MURPHY, to certify which, witness my hand and official seal.



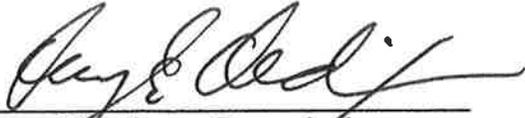
Notary Public Signature





Notary Public's Printed Name

Signed by the Commissioner this 19 day of Oct, 2009.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 16th day of October, 2009.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board