

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

NORMA LISA NAY
TX-1333476-L

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DOCKETED COMPLAINT NO. 09-254
and 11-266

AGREED FINAL ORDER

On this the 3 day of June, 2011, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matters against of Norma Lisa Nay (the "Respondent"). The staff investigators and lawyers of the Board may be referred to collectively as "Staff."

In order to conclude this matter Norma Lisa Nay 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:

I. FINDINGS OF FACT

1. Respondent, Norma Lisa Nay, is a state licensed residential real estate appraiser, holds license number TX-1333476-L, and has been licensed by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about October 22nd, 2007, the Respondent appraised real property located at 3501 Winslow Drive, Arlington, Texas 76015 (the "Winslow Property").
4. On or about November 15, 2008, the Respondent appraised real property located at 1508 Rosewood Lane, Arlington, Texas 76010 (the "Rosewood Property"). The Winslow Property and the Rosewood Property may collectively be referred to as the "Properties."
5. Thereafter Staff received a complaint by the Texas Department of Insurance and Staff also staff-initiated a complaint, both based on allegations that the Respondent had produced appraisal reports that contained various USPAP violations.

6. On or about July 6th, 2009, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved regarding Complaint No. 09-254 and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

7. On or about March 24, 2011, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved regarding Complaint No. 11-266 and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

8. 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 Properties:

- a. Respondent failed to comply with the conduct and record-keeping provisions of the Ethics Rule;
- b. Respondent failed to identify and report the site and improvement(s) description adequately;
- c. Respondent 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;
- d. Respondent failed to provide a brief summary of her basis and rationale for the highest and best use;
- e. Respondent failed to use an appropriate method or technique to develop an opinion of site value and did not employ recognized methods and techniques in her cost approach;
- f. Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in her sales comparison approach;
- g. Respondent failed to explain and support the exclusion of the income approach;
- h. Respondent failed to analyze all agreements of sale, options or listings of the subject Properties current as of the effective date of the appraisal and did not analyze all sales of the subject Properties within three years prior to the effective date of the appraisal;
- i. Respondent failed to reconcile the quality and quantity of the data within the approaches used and the applicability or suitability of the approaches; and,
- j. Respondent's report contained substantial errors of commission or omission which resulted in a misleading appraisal report.

9. Respondent omitted material facts and made material misrepresentations in the appraisal report for the Properties as detailed above.

II. 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; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 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); 1-5(a) & 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) and 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and 2-1(b).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

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

a. Complete six (6) hours of mentorship training with appraiser Dianna Jacobs, during which Respondent must analyze and re-write the appraisals for the Properties;

1) Respondent must submit to Staff an executed Affidavit of Mentorship Pursuant to Agreed Final Order to receive credit for this disciplinary item;

b. Attend and complete a minimum, 15 classroom-hour course in USPAP;

c. Attend and complete a minimum, 7 classroom-hour course in residential cost approach, which course may be taken in an on-line format;

1) No exam for this course shall be required;

2) Within one (1) month of completion of said class, Respondent shall request a property exemplar from Staff and within one (1) month of receiving the property exemplar Respondent shall complete and submit to Staff a cost approach analysis on the property exemplar;

3) The cost approach analysis must be reviewed and approved by Staff in order for Respondent to receive credit for this disciplinary item;

d. Attend and complete a minimum, 15 classroom-hour course in residential case studies;

- e. Draft and submit to Staff a minimum four (4) page paper with three sections: (1) discuss in general terms what Respondent learned through the investigative process and classes attended in accordance herewith, (2) discuss what Respondent learned through the investigative process and classes attended in accordance herewith in regard to the Winslow Property appraisal report, and (3) discuss what Respondent learned through the investigative process and classes attended in accordance herewith in regard to the Rosewood Property appraisal report; and
- f. 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 she 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.

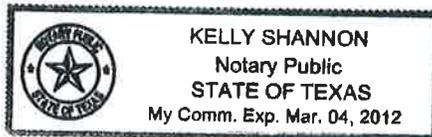
Signed this 3 day of June, 2011.

Norma Lisa Nay
NORMA LISA NAY, the Respondent

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3rd day of June, 2011, by NORMA LISA NAY, an Individual, to certify which; witness my hand and official seal.

Kelly Shannon
Notary Public Signature

Kelly Shannon
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 13 day of June, 2011.

Mark J. Mrnak
MARK J. MRNAK, Esq., Director of Standards and Enforcement Services Division
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this 19th day of August, 2011.

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

Approved by the Board and Signed this 19th day of August, 2011.

Luis De La Garza
LUIS DE LA GARZA, Chairperson
Texas Appraiser Licensing and Certification Board