

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BINH THANH TRAN  
TX-1332874-R

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DOCKETED COMPLAINT NO.  
07-164

**FINAL ORDER**

On this 21<sup>st</sup> day of August, 2009, the Board considered the above-noted matter.

After proper notice was given, the above case was heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. The proposal for decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No such exceptions or replies were filed.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of the proposal for decision, attached as Exhibit A hereto, adopts the findings of fact and conclusions of law of the ALJ contained in the proposal for decision and incorporates those findings of fact and conclusions of law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that the license of Binh Thanh Tran in this matter is hereby **REVOKED**, effective twenty days after the date Binh Thanh Tran is notified of this Final Order.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Board and Signed this 21<sup>st</sup> day of August, 2009.

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

**EXHIBIT A**

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

RECEIVED  
MAY 14 2009

Texas Real Estate Commission

May 13, 2009

Loretta DeHay  
Interim Administrator  
Texas Appraiser Licensing and Certification Board  
1101 Camino La Costa  
Austin, Texas 78752

INTER-AGENCY

**RE: Docket No. 329-09-3082.ALC; Texas Appraiser Licensing and Certification Board  
v. Binh T. Tran**

Dear Ms. DeHay:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in cursive script that reads "Sharon Cloninger".

Sharon Cloninger  
Administrative Law Judge

SC/lh  
Enclosure

xc: Binh Thanh Tran, 7409 Columbia Drive, Arlington, TX 76016 - VIA REGULAR MAIL  
Troy Beaulieu, 1101 Camino La Costa, Austin, TX 78752 – With Exhibits Returned: TALCB's exhibits P1, P2 & P3.  
1 data CD dated 5-5-09 - VIA-INTER-AGENCY

SOAH DOCKET NO. 329-09-3082.ALC

TEXAS APPRAISER LICENSING AND  
CERTIFICATION BOARD,  
Petitioner

V.

BINH T. TRAN,  
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Appraiser Licensing and Certification Board (Staff or Board) brought action against Binh T. Tran (Respondent) seeking to revoke Respondent's Residential Real Property Appraiser license (license) for violations of TEX. OCC. CODE ch. 1103 and the Board's rules. The Administrative Law Judge (ALJ) recommends that Respondent's license be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On May 5, 2009, ALJ Sharon Cloninger convened the hearing at the State Office of Administrative Hearings, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Troy Beaulieu, staff attorney. Respondent did not appear and was not represented at the hearing. The record closed that same day.

After establishing that appropriate notice of the hearing was provided to Respondent and that the Board has jurisdiction, Staff moved for a default. The default was granted in accordance with 1 TEX. ADMIN. CODE § 155.501, and the allegations in Staff's notice of hearing were accepted as true.

## II. RECOMMENDATION

Based on the facts deemed admitted establishing that Respondent failed to provide requested information to the Board, the ALJ recommends that Respondent's license be revoked.

## II. FINDINGS OF FACT

1. Binh T. Tran (Respondent) holds Real Property Appraiser license number TX-1332874-R issued by the Texas Appraiser License and Certification Board (Board).
2. The license, effective November 3, 2008, through October 31, 2009, is in inactive status pursuant to Respondent's request.
3. The Board is pursuing disciplinary action against Respondent in response to a complaint related to Respondent's real estate appraisal of five properties: 916 Urban Drive, De Soto, Texas; 9921 Boston Harbor Drive, Savannah, Texas; 1833 Forsythe Drive, Savannah, Texas; 4451 Ashbury Lane, Mansfield, Texas; and 1712 Brown Thrasher Lane, Savannah, Texas.
4. Board staff (Staff) notified Respondent of the complaint and provided him with the opportunity to respond to the allegations. Further, Staff requested that Respondent provide certain documentation to the Board within 20 days of notice.
5. Respondent did not respond to Staff's inquiries and request for documentation.
6. On March 10, 2009, Staff sent Respondent its Original Statement of Charges by certified mail to his last address of record with the Board: 7409 Columbia Drive, Arlington, Texas, 76016 (Arlington address).
7. On March 12, 2009, Staff sent its notice of hearing by certified mail to Respondent at his Arlington address.
8. The hearing notice contained a statement of the time, place, and nature of the hearing; a statement of legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
9. The notice of hearing notified Respondent in at least 12-point bold-faced font that failure to appear at the hearing would result in the original statement of charges being admitted as true, the relief sought by the Board granted, and a default judgment being taken against her.
10. Respondent neither appeared nor was represented at the hearing on May 5, 2009.

11. Based on Respondent's failure to appear, Staff's motion to proceed on a default basis was granted, and the facts contained with the original statement of charges were deemed admitted.

### III. CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board (Board) has jurisdiction over this matter. TEX. OCC. CODE §§ 1103.451-1103.5545.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding pursuant to TEX. OCC. CODE § 1103.508, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. chs. 2001 and 2003.
3. Pursuant to TEX. OCC. CODE § 1103.403 and 22 TEX ADMIN. CODE (TAC) § 153.31, Respondent was required to notify the Board of any change of his office address.
4. Pursuant to 22 TAC § 157.9(b), service of the notice of hearing upon Respondent was complete and effective upon proper mailing of the notice to Respondent's most recent address as shown by the records of the Board.
5. Staff provided proper notice of hearing to Respondent. TEX. GOV'T CODE ANN. chs. 2001 and 2003.
6. Based on the above Findings of Fact, Respondent violated 22 TAC § 153.22 when he failed to answer inquiries from the Board related to the complaint against him, and did not provide requested documentation to the Board within 20 days of notice despite a written request to do so.
7. Under 22 TAC § 153.20(a)(2), the Board is authorized to suspend or revoke Respondent's appraiser license for his violation of 22 TAC § 153.22.
8. Based on the above Findings of Fact and Conclusions of Law, the Board should revoke Respondent's license for this first time violation that was individually committed in a willful manner. 22 TAC § 153.24(h).

**SIGNED May 13, 2009.**

  
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**SHARON CLONINGER**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**