

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DONALD LEE WELLS
TX-1332046-L

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DOCKETED COMPLAINT NO. 08-186

AGREED FINAL ORDER

On this the 16th day of October, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Donald Lee Wells, (Respondent).

In order to conclude this matter Donald Lee Wells 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, Donald Lee Wells, is a state licensed real estate appraiser, holds license number TX-1332046-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 May 8th, 2008, the Respondent appraised real property located at 610 Staitti Street, Humble, Texas, 77338 ("the property").
4. On or about May 13th, 2008, the Complainant, Carla Thomas, filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained potential violations of USPAP.
5. On or about May 22nd, 2008, 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 and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint 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 property:

- a) Respondent violated the record keeping provisions of the Ethics Rule because he failed to maintain a work file containing all data, information, and documentation necessary to support his opinions and conclusions;
- b) Respondent failed to identify and report the improvement(s) description adequately;
- 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 employ recognized methods and techniques correctly in his sales comparison approach and did not collect, verify, analyze and reconcile comparable sales data adequately;
- e) Respondent failed to provide any support in his appraisal report or work file for his gross rent multiplier and failed to employ recognized methods and techniques in his income approach correctly; and,
- f) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report.

7. Respondent omitted material facts in his appraisal report 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 §§ 1103.451-1103.5535 (Vernon 2007).

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: 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(ix); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-4(c)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(c); 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, 15 classroom-hour course in Residential Market Analysis and Highest and Best Use; and,
- c. Comply with all 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 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.

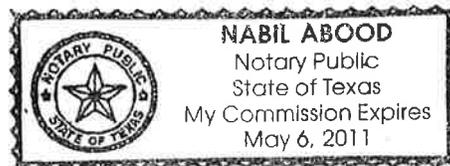
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 21st day of Sept., 2009.

Donald Lee Wells
DONALD LEE WELLS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 21st day of September, 2009, by DONALD LEE WELLS, to certify which, witness my hand and official seal.

Nabil Abood
Notary Public Signature
Nabil Abood
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