

**BEFORE THE REAL ESTATE APPRAISER BOARD
STATE OF OKLAHOMA**

In the Matter of GARY L. WARD)
)
Respondent.) Complaint #16-019

CONSENT ORDER FOR RESPONDENT GARY L. WARD

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent GARY L. WARD, and enter into this Consent Order pursuant to Oklahoma Statutes Title 59 §858-700, et seq. and Oklahoma Administrative Code 600:10-1-1, et seq. All sections of this order are incorporated together.

AGREED FINDINGS OF FACT

1. On October 21, 2014, Gary L. Ward accepted an appraisal assignment for an appraisal on (the “appraisal”) for a property located at 168 K. Lynn Street, Ardmore, Oklahoma (the “subject”). Respondent listed Quicken Loans as the lender/client (“lender” or “client”). The report was transmitted to the client, with an effective date of October 29, 2014. The appraisal’s intended use was for a refinance transaction.
2. Respondent committed a series of errors in the report which led to a misleading and non-credible report. These errors include, but are not limited to, the following in paragraphs 10-18.
3. Respondent reported an opinion of value of \$345,000.
4. On September 9, 2015, the lender notified TSI Appraisal of a Fannie Mae Repurchase Demand due to the origination appraisal not adequately supporting the value.
5. The reasons for the lack of support include the following.

6. **Failure to Report Subject Sales History** - According to public records, the subject property had a prior sale that was not reported and/or analyzed. The borrower acquired the subject property for \$310,000 on April 29, 2014. The appraised value represented a 10% increase over the price paid for the property in only six months without any sort of explanation or disclosure.

7. **Failure to Report Subject Listing History** - According to the Multiple Listing Service ("MLS"), the subject property was previously listed for \$329,900. The appraiser did not report the listing history and failed to consider the list price in developing the value estimate. The appraised value represented a 5% increase over the list price.

8. **Use of Comparable Sale with Dissimilar Site Characteristics without Adequate Explanation** - Comparable sale 2 had a significantly different site size than the subject property. The subject property had a site size of 15,453 square feet while comparable sale 2 had a site size of 9.28 acres (404,237 square feet). Respondent did not provide an adequate explanation as to why the comparable sale was used.

9. **Inappropriate Sales Selection Due to Location** - Comparable sales two and three are inappropriate as they were respectively 6.08 and 6.79 miles away, without adequate explanation as to why the comparables were used. Similar and more appropriate sales were available. Sales two, three, and six were located across Interstate Highway 35, a major thoroughfare for the area.

10. **Adjusted Value of Comparable(s) Failed to Support Appraised Value** - Comparable sales two, three and four failed to support the estimated value. Comparable sales one, three and four, additionally, did not support the appraised value before or after adjustments; and comparable sale four was located on the subject's street.

11. Overall, Respondent did not analyze a prior sale; did not discuss highest and best use; there are inconsistent size adjustments without support (and in a manner, that is not what his peers would do); he failed to develop an opinion of site value by an appropriate method; Respondent chose comparables that are not truly comparable; Respondent chose comparables with 9 acre tracks and 11,000 square feet with no adjustments; subject's site size is shown as 15,453 when it is 43,508. Respondent did a prior appraisal on the same property and when comparing the two, many of the subject's described features and associated adjustments are vastly different. Respondent makes adjustments for his comparable number one on both reports regarding comparable one's (5704 Myal Road, Ardmore, Oklahoma), swimming pool that are vastly different and inconsistent without explanation.

AGREED CONCLUSIONS OF LAW

1. That Respondent has violated 59 O.S. § 858-723(C)(6) through 59 O.S. §858- 726, in that Respondent violated:

- A) The Ethics Rule and the Conduct Section of the Uniform Standards of Professional Appraisal Practice Ethics Rule;
- B) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;
- C) The Scope of Work Rule of the Uniform Standards of Professional Appraisal Practice;
- D) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, and 1-6; Standard 2, Standards Rules 2-1. and 2-2 of the Uniform Standards of Professional Appraisal Practice. These include the sub sections of the referenced rules.

2. That Respondent has violated 59 O.S. § 858-723(C)(7): "Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal."

3. That Respondent has violated 59 O.S. § 858-723(C)(13) in that Respondent violated 59 O.S. § 858-732(A)(1): "An appraiser must perform ethically and competently and not engage in conduct that is unlawful, unethical or improper. An appraiser who could reasonably be perceived to act as a disinterested third party in rendering an unbiased real property valuation must perform assignments with impartiality, objectivity and independence and without accommodation of personal interests."

4. That Respondent has violated 59 O.S. § 858-723(C)(6): "Violation of any of the standards for the development or communication of real estate appraisals as provided in the Oklahoma Certified Real Estate Appraisers Act."

CONSENT AGREEMENT

The Respondent, by affixing his signature hereto, acknowledges:

1. That Respondent has been advised to seek the advice of counsel prior to signing this document, and
2. That Respondent possesses the following rights among others:
 - a. the right to a formal fact finding hearing before a disciplinary panel of the Board;
 - b. the right to a reasonable notice of said hearing;
 - c. the right to be represented by counsel;
 - d. the right to compel the testimony of witnesses;
 - e. the right to cross-examine witnesses against him; and
 - f. the right to obtain judicial review of the final decision of the Board.

3. The Respondent stipulates to the facts as set forth above and specifically waives him right to contest these findings in any subsequent proceedings before the Board and to appeal this matter to the District Court.

4. The Respondent consents to the entry of this Order affecting his professional practice of real estate appraising in the State of Oklahoma.

5. The Respondent agrees and consents that this Consent Order shall not be used by him for purposes of defending any other action initiated by the Board regardless of the date of the appraisal.

6. All other original allegations in this matter are dismissed.

ORDER

WHEREFORE, on the basis of the foregoing Agreed Findings of Fact and Agreed Conclusions of Law, it is ordered and that:

1. The Respondent shall complete the following courses, which can be taken in person or on-line, said education shall be completed within ninety (90) days after the approval of this Order:

- A) A 15 hour USPAP course which must be completed and tested, with no education credit;
- B) Course #613 or 60F: Residential Sales Comparison & Income Approach: 1910, which must be tested and respondent will receive course credit;
- C) Course #614 or 60G: Residential report Writing and Case Studies: 1910, which must be tested and respondent will receive course credit;

2. A \$1,000 Administrative fine; and

3. Once the education in paragraphs 1 A, B, and C, have been completed, Respondent will be on probation for ninety days. During the period of this probation, Respondent shall provide an appraisal log on REA Form 3 to the administrative office of the OREAB no later than the fifth working day of each month detailing his appraisal activity during

the preceding month. The OREAB may select and require samples of work product from these appraisal logs be sent for review.

Respondent shall provide the OREAB office proof of completion of the courses within ninety (90) days of this Order's effective date (which will begin upon receipt of the Order's approval from the Oklahoma Attorney General's Office).


DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24-A.1 – 24A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying upon request.

FUTURE VIOLATIONS

In the event the Respondent fails to comply with any of the terms and conditions of this Consent Order, Respondent will be ordered to show cause for his failure to comply which could result in additional penalties.

RESPONDENT:



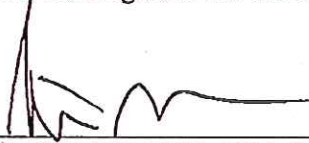
GARY L. WARD

DATE

1-23-17

CERTIFICATE OF BOARD PROSECUTING ATTORNEY

I believe this Consent Order to be in the best interests of the Oklahoma Real Estate Appraiser Board, the State of Oklahoma and the Respondent with regard to the violations alleged in the formal Complaint.



STEPHEN MCCALED, OBA #15649
Board Prosectuor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

2-2-17

DATE

IT IS SO ORDERED on this 1st day of February, 2017.



ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board



**OKLAHOMA REAL ESTATE
APPRAISER BOARD**

By:



BRYAN NEAL, OBA #6590
Assistant Attorney General
Attorney for the Board
313 NE 21st Street
Oklahoma City, Oklahoma 73105

CERTIFICATE OF MAILING

I, Sherry Ainsworth, hereby certify that on the 15th day of March, 2017 a true and correct copy of the above and foregoing Consent Order for Respondent Gary L. Ward was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Gary L. Ward
PO Box 2555
Ardmore, OK 73402

7012 2210 0000 8959 9740

and that copies were forwarded by first class mail to the following:

Bryan Neal, Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, OK 73105

Stephen L. McCaleb
DERRYBERRY & NAIFEH
4800 N. Lincoln Boulevard
Oklahoma City, OK 73105


Sherry Ainsworth



RECEIVED
OKLAHOMA INSURANCE DEPT.

MAR 14 2017

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-164A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
3625 N.W. 56th St., Ste. 100
Oklahoma City, OK 73112

March 9, 2017

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Real Estate Appraiser Board intends to take pursuant to a consent agreement with licensee 11806SLA. The proposed action is to impose a \$1,000 fine, and require the licensee to complete courses in residential sales comparison and income approach and in residential report writing. In addition, the license will be placed on probation for three months, during which time the licensee must provide the Board with monthly appraisal logs and submit such work product for review as requested.

The licensee produced an appraisal report as part of a refinance transaction, which did not adequately support the value of the property. Specifically, the appraisal did not analyze a prior sale of the property or discuss highest and best use of the property, used inadequate comparables, and failed to make appropriate adjustments. The report had inconsistent size adjustments without proper support and a significantly different site size. Further, the licensee failed to develop the site value by an appropriate method and many of the subject's described features and associated adjustments are vastly different than a previous appraisal performed by the licensee on the same property.

The Oklahoma Certified Real Estate Appraisers Act, 59 O.S.2011 & Supp.2016, §§ 858-700–858-732, authorizes the Oklahoma Real Estate Appraiser Board to discipline licensees based on “[v]iolation of any of the standards for the development or communication of real estate appraisals,” “[f]ailure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal” or “[v]iolati[on] of any of the provisions in the code of ethics set forth in [the Act],” 59 O.S.Supp.2016, § 858-723(C)(6), (7), (13). The Act requires adherence to the “current edition of” the Uniform Standards of Professional Appraisal Practice (“USPAP”), 59 O.S.2011, § 858-726, which is the 2016-2017 edition.

The USPAP contains professional requirements pertaining to ethics, competency, and scope of work. *See* ETHICS RULE, USPAP-8 (requiring compliance with USPAP standards); COMPETENCY RULE, USPAP-12 (requiring appraisers to be competent to perform assignment or acquire necessary competency); SCOPE OF WORK RULE, USPAP-14 (requiring appraiser to perform scope of work necessary to develop credible results and disclose such information in the

appraisal report). USPAP also contains standards such as Standard 1, which requires the appraiser to "complete research and analyses necessary to produce a credible appraisal." USPAP-17. Components of Standard 1 clarify that this means the appraiser must employ proper valuation techniques, identify relevant characteristics of the property, avoid making unsupported assumptions when developing a market value opinion, analyze relevant factors, and reconcile data and approaches used to arrive at a value conclusion. USPAP-17, 18, 19, 20, 21. Further, Standard 2 requires that appraisal reports communicate all analyses, opinions, and conclusions clearly and accurately and to summarize the information sufficient to identify the real estate involved in the appraisal. USPAP-22. The action seeks to enforce requirements of professionalism embodied in the Act and in the USPAP. The Board may reasonably believe that the disciplinary action is necessary to prevent future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Real Estate Appraiser Board has adequate support for the conclusion that this action advances the State of Oklahoma's policy to uphold standards of competency and professionalism among real estate appraisers.

A handwritten signature in black ink that reads "Mike Hunter". The signature is written in a cursive, slightly slanted style.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA