

2. Respondent committed a series of errors in the report. The appraisal listed the Assessor's parcel number as R199181202, which is an Oklahoma County parcel number. The subject is located in Pottawatomie County with parcel number assigned by the assessor as 2505-00-008-015-0-000-00. The real estate taxes shown on the appraisal report are \$1,354; however, the actual tax was \$1,140.99.

3. Respondent's report stated that due to lack of recent similar sales, site value was taken from recent sales in a nearby competing addition. There was a sale within 4 blocks of subject of a vacant residential site on 12/28/2015 for \$4,500. This was not noted in the appraisal report in the section where the citation regarding the lot sale in Timbers was located.

4. Regarding the reporting of sales within the past 3 years, Respondent incorrectly reported that the subject property previously sold on 07/29/2015 for \$81,000. The subject property sold at a Sheriff's sale for \$60,000, filed 3/2/15. Grantee then sold the property to Jonathan Burk as of 7/29/15 who sold the property to Robert Paul Wooldridge III and Jill Nicole Wooldridge, on 7/13/16. The appraisal shows the property being sold by Robert and Nicole Wooldridge prior to their owning the property.

5. On the FannieMae form, the report states that the subject property had been on the market for 164 days. The report provides that less than 3 months is the typical marketing and exposure time but does not include appropriate analysis.

6. The sales are all rated C3 for condition, yet sales 2 & 3 sold for \$18.74 and \$11.40 less per square feet than did sale 1, indicating a condition or other adjustment for some reason, but no adjustment was noted or made.

7. Comparable 5 is a listing, which a lot of lenders require to be included on secondary market appraisals. Appraiser indicates this property, 4101 N. Pottenger, had an asking

price of \$145,000, however the listing number cited was for \$129,000 and its status was withdrawn. It is not known where the asking price of \$145,000 came from.

8. Under the “subject” section, the correct legal description for the property is shown, however, on the Additional Comments page, the legal description covers a property in Spencer 2nd Addition in Oklahoma County.

9. The statement that the appraiser had not performed real estate services on the subject property within 3 years is missing from the certification.

10. The neighborhood boundaries are set out; however, the southern boundary refers to North MacArthur, while the street is actually West MacArthur. The estimated marketing and exposure time is shown to be 3 months or less. Sale 3, in close proximity to the subject was on the market for 146 days, sale 4 was 157 days. No mention was made of this conflicting information.

11. The improvements have been adequately described. Recent major upgrades were noted. Additional comments outline the recent upgrades; however the third line of this commentary stops abruptly without the sentence being completed, so it is not known whether or not there were other items that should have been relayed to the intended user.

12. Respondent reports that the cost approach is not considered reliable and was not developed. However, with the kind/type of recent upgrades outlined by the Respondent, and the fact that the 41-year old house has an effective age of 18 years, it gives the impression that the effective age might be less than 18 years.

13. Sales for properties 1, 3 and 4 all had seller concessions but the report does not disclose whether these concessions are typical in the area. There was no comment or adjustment

on sale 2, which had no concessions. None of the adjustments for sale 3 were explained as being contributing without explanation.

14. Respondent reports that homes “in subject price range are not generally purchased for their income purpose, therefore the income approach was not used...” However, there are rental houses in the subject addition.

15. The final reconciliation merely states that the market approach was given the most weight without adequate explanation.

FINDINGS OF FACT FOR COMPLAINT 16-043

16. Respondent performed an appraisal for a property located at 8501 Fox Drive, Crescent, Oklahoma, which is a manufactured home. Respondent listed that American Equity Mortgage was the lender/client. The appraisal’s use was for a refinance transaction.

17. Respondent listed that local dealers provided the cost data for this report. Typically, the NADA guide is the source of this data. Respondent should have been clear about the exact source of the data so that the reader could “duplicate” the findings.

18. Respondent did not make appropriate site size adjustments. There is a large variance in site sizes and site adjustments appear warranted. A survey over the twelve months preceding the effective date showed significant site value differences between 1-2 acre, 3-7 acre, and 8-12 acre vacant properties in the Crescent/Cashion area.

19. Respondent adjusted for workshops for Sale #1 and Sale #3, but not for Sale #2 even though one was listed.

20. The sales approach to value has inaccuracies in the adjustments. This could impact the final opinion of value and the reliability of the report.

21. The report contains an incorrect parcel number; canned comments, some of which refer to the subject being in "Tecumseh" or the "metro area" when it is actually located in Crescent.

22. There a large range in values with the chosen comparables and no commentary regarding financing. Comparable #1 was not truly a comparable because it was on 9.39 acres with a 50 x 30 shop, a lien-to and a cabana, none of which were identified. Comparable #2 had non-identified concessions.

FINDINGS OF FACT FOR COMPLAINT 17-006

23. In October of 2016, Respondent conducted an appraisal for property located at 1809 Cedar Ridge Road, Edmond, Oklahoma, which is a manufactured home. Respondent listed that Bank of Oklahoma as the lender/client. The appraisal's use was for a refinance transaction.

24. The factors that affect marketability were not adequately and reasonably described. There is little or no explanation of what factors affect the subject's market and marketability within its primary market area.

25. Respondent identified only section line roads that encompass one square mile of which the subject's primary neighborhood is located. The defined neighborhood actually contains multiple neighborhoods, which would typically not be considered competitive areas. Cedar Ridge is made up primarily of homes built from 1974 to 1978, comprising 1,600 to 3,000 square feet.

26. Respondent has identified a neighborhood that contains homes built between 1934 to 2016, and comprising sizes from 900 to 3,500 square feet. The wide ranging sample could fit or identify many neighborhoods and does not appear to be specific to the subject's area.

Neighborhood boundaries in the report are too wide and could mislead the user of the report to think that any of those properties are in direct competition with the subject.

27. The report contained no Plat, Survey, County Clerk recorded document or Assessor's parcel map that would have identified if there were any easements, encroachments, inclusions or exclusions that would have assisted the Respondent to identify and support his conclusion "there are no apparent adverse easements or encroachments noted".

28. Respondent failed to analyze comparable sales data and appropriate appraisal methods to support his conclusions. He did not adequately collect, verify, and report comparable sales; the report did not contain adequate reasoning for adjustments, analysis, opinions and conclusions; and Respondent has not correctly employed recognized methods and techniques.

29. Respondent did not employ required analysis and reporting techniques when identifying comparable sales and listings in direct competition or closest in proximity.

30. The appraisal reflected a sale price of \$220,000 instead of \$219,900 as recorded in county clerks records. Comparable sale #1's published listing indicated this home has 2,595 sq. ft. of above grade living area; Respondent reports 2,052 sq. ft. in the report.

31. Respondent failed to report sale concessions or adverse sale conditions in comparable #2. Comparable sale #3 was marked as an "Arms Length" transaction when it was actually a relocation sale.

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 Competency Rule of the Uniform Standards of Professional Appraisal Practice;

B) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, and 1-6; Standard 2, Standards Rules 2-1, 2-2, and 2-3 of the Uniform 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)(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.

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 his 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.

7. Respondent acknowledges this will be placed on the Board's agenda for its next monthly meeting after receipt of the executed Order from Respondent, and notice for the Order's placement on that agenda is accepted.¹

8. All parties to this Consent Order have been represented by counsel.

9. This Consent Order may be executed in one or more counterparts, but all of such counterparts, taken together, shall constitute only one Consent Order. When delivered to the other party, facsimile and visual digital reproductions of original signatures shall be effective the same as if they were the originals.

10. This Consent Order shall be governed by the internal laws of the State of Oklahoma without regard to the conflict of law principles.

11. This Consent Order contains the entire agreement between the parties hereto and all provisions of this Consent Order are contractual and not a mere recital. The Parties

¹ Currently the 2018 Board meetings are scheduled for 9:30 a.m. for: February 7, March 7, April 4, May 2, June 6, July 11, August 1, September 5, October 3, November 7, December 5.

acknowledge that no presentation or promise not expressly set forth in this Consent Order has been made by any of the Parties hereto or any of their agents, employees, representatives, or attorneys. No modification of, or amendment to, this Consent Order shall be valid unless it is in writing and signed by the Parties. In the event any portion of this Consent Order shall be declared illegal or unenforceable as a matter of law, the remainder of the Consent Order shall remain in full force and effect.

12. The undersigned Respondent agrees that presentation of this Consent Order to the OREAB without the undersigned Respondent being present shall not constitute an improper *ex parte* communication between the OREAB and its counsel.

13. The Parties represent and warrant to one another that each party has authority to enter into this binding Consent Order. The OREAB represents and warrants that the undersigned have full authority to execute this Consent Order on behalf of the OREAB and bind the OREAB to the terms set forth herein.

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

The Oklahoma Real Estate Appraiser Board will not submit this Consent Order for the Board's consideration until its agreement and execution by the Respondent(s). It is hereby agreed between the parties that this Consent Order shall be presented to the Board with recommendation for approval of the Board at the next scheduled meeting of the Board. The Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, a formal hearing on the complaint may be held. If the Board does not accept the Consent Order, it shall be regarded as null and void. Admissions by Respondent in the rejected Consent Order will not be regarded as evidence against him/her at the subsequent disciplinary hearing. Respondent will be free to defend himself and no inferences will be made

from his willingness to have entered this agreement. It is agreed that neither the presentation of the Consent Order nor the Board's consideration of the Consent Order will be deemed to have unfairly or illegally prejudiced the Board or its individual members and therefore will not be grounds for precluding the Board or any individual Board member from further participation in proceedings related to the matters set forth in the Consent Order.

- **THIS CONSENT ORDER IS NOT EFFECTIVE UNTIL ITS APPROVAL BY A MAJORITY OF THE BOARD AND THE APPROVED ORDER RECEIVES A SUBSEQUENT ENDORSEMENT ("SIGNATURE") BY A REPRESENTATIVE OF THE BOARD. THE EXECUTED ORDER IS THEN SUBJECT TO A WRITTEN ANALYSIS BY THE OKLAHOMA ATTORNEY GENERAL'S OFFICE.**

ORDER

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

1. Respondent shall complete the following "core curriculum", as currently required of an appraiser applicant for the Certified Residential appraiser credential under the Appraiser Qualification Criteria, within a eighteen (18) month period from the date this Consent Order is approved by the Board. Respondent already successfully completed the 15 hour National USPAP Update course, pursuant to Order #16-005. The classes to be taken and successfully completed are:

- Basic Appraisal Procedures (30 Hours)
- Residential Market Analysis and Highest and Best Use (15 Hours)
- Residential Appraiser Site Valuation and Cost Approach (15 Hours)
- Residential Sales Comparison and Income Approaches (30 Hours)

- Residential Report Writing and Case Studies (15 Hours)
- Statistics, Modeling and Finance (15 Hours)
- Advanced Residential Applications and Case Studies (15 Hours)

2. Respondent will take and pass the Certified Residential Appraiser Exam within the eighteen (18) months from the date this Consent Order is approved by the Board. The Exam will be taken after the completion of all the courses. Respondent understands he will need to obtain a test card from the OREAB.

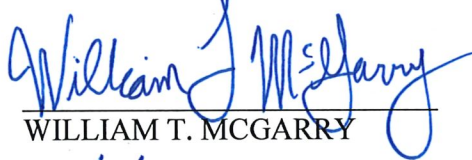
DISCLOSURE

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:


WILLIAM T. MCGARRY

2/6/2018
DATE


RACHEL LAWRENCE MOR
Counsel for Respondent

2/6/2018
DATE

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 Prosecutor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

2-7-18

DATE

IT IS SO ORDERED on this ^{7th} day of February, 2018.



ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board
**OKLAHOMA REAL ESTATE
APPRAISER BOARD**

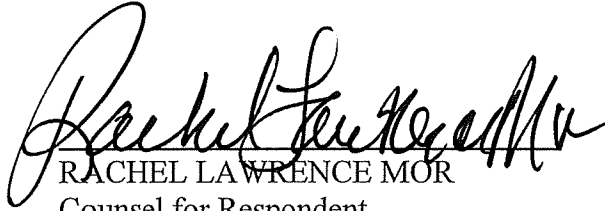


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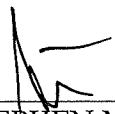
BRYAN NEAL, OBA #6590
Assistant Attorney General
Attorney for the Board
313 NE 21st Street
Oklahoma City, Oklahoma 73105

ADDENDUM

The Parties agree that the eighteen (18) months in paragraph two of the Order section begins the day of the Attorney General's approval, should said approval be granted.


RACHEL LAWRENCE MOR
Counsel for Respondent

2/7/18
DATE


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

2-7-18
DATE



RECEIVED
OKLAHOMA INSURANCE DEPT.

MAR 07 2018

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-79A

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

March 5, 2018

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Real Estate Appraiser Board intends to take with respect to licensee 13038CRA. The licensee previously entered into an agreed consent order with the Board. The licensee has failed to complete all requirements of the order. The Board proposes to require completion of the entire core curriculum for the Certified Residential Appraiser licensure level, with the exception of the 15-hour Uniform Standards of Professional Appraisal Practice ("USPAP") course which was recently completed by the licensee. Additionally, the licensee must take and pass the Certified Residential Appraiser exam within 18 months.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board "[t]o censure, suspend and revoke certificates pursuant to the disciplinary proceedings provided in [the Act,]" *see* 59 O.S.Supp.2017, § 858-706(7), and to require payment of fines and costs and the completion of educational programs. *Id.* § 858-723(A)(7)-(9). The Board may discipline licensees who "[v]iolat[e] any of the provisions in the code of ethics set forth in [the] Act." *Id.* § 858-723(C)(13). The Act requires adherence to the USPAP, which contains professional requirements pertaining to ethics, competency, and scope of work. 59 O.S.2011, § 858-726. The Board may reasonably believe that the proposed 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's policy to uphold standards of competency and professionalism among real estate appraisers.

Handwritten signature of Mike Hunter in black ink.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

Handwritten signature of Amanda Otis in black ink.

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF MAILING

I, Sherry Ainsworth, hereby certify that on the 7th day of March, 2018, a true and correct copy of the above and foregoing instrument was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

9214 8902 0982 7500 0059 73

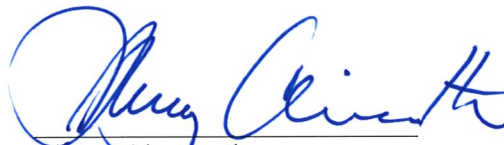
Rachel Lawrence Mor
3037 N.W. 63rd Street, Suite 205
Oklahoma City, Oklahoma 73116
Attorney for Respondent

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

William Taylor McGarry
700 S Kelly Ave
Edmond, OK 73003-5638

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