

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

In the Matter of CODY J. BALES,)
) Complaint #16-014
Respondent.)

**BOARD'S DECISION AS TO
DISCIPLINARY HEARING PANEL RECOMMENDATION**

ON THE 1st day of March 2017, the above numbered and entitled cause came on for hearing before the Real Estate Appraiser Board, following a disciplinary hearing that was held on the 19th day of December, 2016. The Respondent failed to appear at the disciplinary hearing and was not represented in his absence by an attorney. The Respondent further failed to request oral argument before the Board or appear at the March 1, 2017 regular session meeting as noticed.

The Board was represented by a Disciplinary Hearing Panel composed of three (3) members, each of whom is a Oklahoma licensed real estate appraiser, as follows; Timothy G. Wolzen of Choctaw, Oklahoma, Nena W. Henderson of Edmond, Oklahoma, and Terry L. Hinkle of Oklahoma City, Oklahoma. Nena W. Henderson was elected and served as Hearing Panel Chairman at the hearing. Said panel was represented by the Board's Attorney and Hearing Panel Counsel, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board's Prosecutor, Stephen McCaleb. On behalf of the Board, Mr. McCaleb elected to have this matter recorded by electronic device and to rely on the electronic recording. The Respondent Cody J. Bales was not present and made no election on the record. Neither the Board's Prosecutor nor the Board's Legal Secretary indicated that any Motion for a Continuance had been filed in this matter.

The Board's Prosecutor indicated that as of the date and time of the scheduled hearing, he had received no word from the Respondent as to whether the Respondent or an attorney on his behalf would or would not appear for the hearing.

The Respondent, Cody J. Bales, whose last-known residential and business address is 7919 E. 50th Street, Tulsa, Oklahoma 74145-6001 (the "Respondent"), having been served a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel dated November 18, 2016 (the "Notice"), by first class U.S. certified mail with return receipt requested, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Administrative Procedures Act, 75 O.S. §§250-323, the Respondent failed to appear in person at the appointed time 9:30 a.m., the time provided in the Notice when the proceedings were scheduled to begin.

The Board's Prosecutor noted at the beginning that the Notice in this matter was amended through a document entitled "First Amended Notice of Disciplinary Proceedings and Appointment of Hearing Panel" filed with the Board earlier in the day on December 19, 2016, that eliminates only original allegations numbered 14-19 and expressly stated that no additions were made. Accordingly, the Notice and the First Amended Notice will be collectively referred to hereinafter as the "Notice".

Neither party to these proceedings requested that a court reporter record this matter. No proposed findings of fact were submitted to the Board by either party to these proceedings.

PRELIMINARY MATTERS

The Board's Prosecutor initially moved for the admission of three (3) exhibits into evidence, which were marked sequentially as Exhibits 1, 2, and 3, each of which exhibits were contained in a trial notebook, and noting that all three such Board exhibits were each Bates-stamped with page numbers provided within each such exhibit in numerical order. Exhibits 1 through 3 in the trial notebook were admitted into evidence, to which admission there was no objection. Subsequently, the Board's Prosecutor moved for the admission of four additional exhibits, marked respectively as Exhibits 4, 5, 6, and 7.

The first exhibit presented, marked as Exhibit 1, was identified collectively as a copy of the Grievance, consisted of 42 pages, the first page of which is the Board's standard grievance form signed by a representative of Axis Appraisal Management Solutions, Inc., [60074AMC, an Oklahoma licensed appraisal management company], William C. Waltenbaugh, 1101 Fifth Avenue, San Rafael, California 94901, together with a cover letter addressed to the Respondent from Axis Appraisal Management Solutions, Inc., dated February 17, 2016, a copy of a review appraisal purporting to comply with Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 3-6, entitled "Appraisal Quality Compliance" performed by Oklahoma-licensed appraiser Cassie Everett, 12452CRA, dated February 3, 2016, and a copy of the subject appraisal report by the Respondent on the real property located at 1809 Drury Lane, Nichols Hills, Oklahoma 73116 (the "subject property" or "subject"), which Exhibit 1 was admitted into evidence without objection. It was noted that in connection with this appraisal report that Liberty Mutual Insurance Company listed the Respondent's business address on a Real Estate Appraisers Professional Liability certificate (Exhibit 1, page 37) to be at 4801 N. Classen Blvd. Suite 208, Oklahoma City, Oklahoma 73118, rather than the Tulsa business address the Respondent provided to the Board.

The second exhibit presented, marked as Exhibit 2, was identified as a copy of the Respondent's Response to the Grievance and work file initially in the form of a series of 6 pages of emails involving repeated Board requests for a copy of the Respondent's work file, a one page undated and unsigned Grievance Response letter that was filed with the Board on April 22, 2016 (page 7), together with a copy of the appraisal report on the subject property beginning at page 8 through page 33, and beginning at page 34 through page 46, copies of three pages of tax records on the subject property and Multi-List Service (MLS) data sheets on his comparable sales, which Exhibit 2 was admitted into evidence without objection.

The third exhibit presented consisting of 42 pages, marked as Exhibit 3, was identified as a copy of the Respondent's work file with real estate data that the Respondent submitted to the Board, which Exhibit 3 was admitted into evidence without objection.

The fourth exhibit presented marked as Exhibit 4 consisted of one page and was identified as the Board's Data Base Screen with official licensing information on the Respondent Cody J. Bales, which Exhibit 4 was admitted without objection.

The fifth exhibit presented marked as Exhibit 5 consisted of one page and was identified as a Certified Mail Receipt file-stamped November 18, 2016, of the Notice addressed to the Respondent at his last-known residential and business address of 7919 E. 50th Street, Tulsa, Oklahoma 74145-6001 and a copy of a Green Card which stated a delivery date of the Notice by the Respondent of November 29, 2016, which Exhibit 5 was admitted without objection.

The sixth exhibit presented marked as Exhibit 6 consisted of 22 pages and was identified as the Board's Decision as to Disciplinary Hearing Panel Recommendation, Order #16-014, in a prior case with the Respondent styled as "In the Matter of Cody J. Bales, Respondent, Complaint #15-022" dated August 3, 2016, and mailed September 7, 2016, with Opinion No. 2016-534A of the Oklahoma Attorney General dated September 6, 2016, attached, which Exhibit 6 was admitted without objection.

The seventh exhibit presented marked as Exhibit 7 consisted of 7 pages and was identified as the USPS tracking sheet for the Notice sent to the Respondent November 18, 2016, which Exhibit 7 was admitted without objection.

The Hearing Panel was informed by the Board's Prosecutor that he could proceed with this matter either as a Default due to the absence of the Respondent or proceed with presenting the full case in chief against the Respondent by presenting witnesses and evidence. The Board's Prosecutor

stated his preference would be to present the case in chief against the Respondent. Voicing no objections, the Hearing Panel was satisfied that the Respondent had received the Notice based upon the information it received as referred to above and proceeded with the hearing in his absence.

WITNESSES AND EVIDENCE PRESENTED

The Board's Prosecutor presented one (1) witness in support of the case against the Respondent: Board Director, Christine McEntire. The Board's Prosecutor noted that as the Respondent's appraisal report speaks for itself, he would proceed by pointing out and identifying the errors in the Respondent's appraisal report.

Christine McEntire Testimony as to the Notice (Summary)

According to the sworn testimony of the Board's Director, Christine McEntire, she is the Board's Director, that as part of her duties she oversees the Board's disciplinary matters including this one involving the Respondent Cody J. Bales, that the Board's Prosecutor prepares the Notice and that the Board's staff sends out the Notice that is prepared by the Board's Prosecutor. Ms. McEntire testified that in this matter the Board does have service of the Notice on the Respondent through first class U.S. certified mail with return receipt requested on November 18, 2016, at the Respondent's last-known residential and business address. Ms. McEntire identified the one page Board's Data Base Screen marked as Exhibit 4 to be the Board's record of the Respondent's licensing information including his last-known residential and business address at 7919 E. 50th Street in Tulsa, Oklahoma 74145-6001. Ms. McEntire identified the exhibit marked as Exhibit 5, to be a copy of: (1) the U.S. certified mail receipt received by the Board evidencing that the Notice was mailed to the Respondent by first class U.S. certified mail with return receipt requested to his last-known residential and business address, 7919 E. 50th Street, Tulsa, Oklahoma 74145-6001, on November 18, 2016; and (2) a USPS Domestic Return Receipt bearing the hand-written signature

of someone named Aaron Olson on behalf of the Respondent, marked as having been received on November 29, 2016, which evidences the fact that someone on behalf of the Respondent did receive and sign for the Notice on November 29, 2016, which Notice listed the scheduled hearing date of December 19, 2016, at 9:30 a.m. (Exhibit 5).

Ms. McEntire identified the exhibit marked as Exhibit 6 to be the Board's Decision as to Disciplinary Hearing Panel Recommendation, Order #16-014, in a prior case with the Respondent styled as "In the Matter of Cody J. Bales, Respondent, Complaint #15-022" dated August 3, 2016, and mailed September 7, 2016. According to Ms. McEntire, the Respondent has not completed the requirements of Order #16-014 including not having paid his fine or costs of prosecution in the prior case as ordered by the Board and his license is currently under suspension for failure to complete such Board-ordered requirements. Upon the completion of her testimony, the witness was released and returned to her seat.

Board Prosecutor's Presentation of Case Through Exhibits Admitted (Summary)

The Board's Prosecutor stated that as the exhibits spoke for themselves about the violations of the Oklahoma Certified Real Estate Appraisers Act and USPAP, that he would lead the Hearing Panel through the exhibits rather than presenting them through a witness and would point out the alleged violations of law and USPAP.

The Board's Prosecutor pointed out that the Respondent's appraisal report (Exhibit 1, page 16) in its "Site" section describing the subject property states several times that there is "No Zoning". According to the Respondent's work file data source Oklahoma County Tax Record (Exhibit 2, page 34) the land use for the subject property is "SFR" for Single Family Residential and the building type is "Single Family". Further, according to the Respondent's work file data source MLS data sheet information provided by Redfin (Exhibit 3, page 7), the style house of the

subject property is “Single Family Residential”. Despite having data available to him at the time he was preparing the appraisal report, the Respondent failed to verify that there was “No Zoning” on the subject property or to reconcile the available data.

As questions about what “Redfin” actually is arose, it was noted by Hearing Panel Chairman Nena W. Henderson, that it is her understanding that “Redfin”, while not MLS, is a national data base.

Next, the Board’s Prosecutor pointed out that the Respondent’s appraisal report (Exhibit 1, page 16) in its “Improvements” section describing the subject property states that there have been no updates for 15 years. According to the Respondent’s work file data source MLS data sheet information provided by Redfin (Exhibit 3, page 2), the subject property is described as having an “updated kitchen and bathrooms”. Further, according to the Respondent’s work file data source Oklahoma County Tax Record (Exhibit 2, page 35), the subject property was built in 1948 but has an effective year build of 2009. Despite having data available to him at the time he was preparing the appraisal report, the Respondent failed to verify that no updates had been performed on the subject property for the 15 year period he reported because the data indicated that updates had been performed and the Respondent failed to reconcile the available data. It was noted that the Oklahoma City MLS data sheets located in the Respondent’s response to the Grievance (Exhibit 2, pages 37-46) are dated April 13, 2016, while the effective date of the appraisal is July 20, 2015 (Exhibit 2, page 21).

The Board’s Prosecutor next pointed out that the Respondent’s appraisal report (Exhibit 1, page 16) in its “Improvements” section describing the amenities on the subject property makes no mention of a detached “Guest House” (accessory building) while the Respondent’s photographs of the subject property (Exhibit 1, Page 25-26) includes photographs of a detached structure the

Respondent identifies as a "Guest House" and the Respondent's sketch of the subject property includes a detached structure (accessory building) also described as a "guest house" (Exhibit 1, page 27; Exhibit 2, page 22). Despite having data and photographs available to him at the time he was preparing the appraisal report, the Respondent failed to report the presence of a detached structure (accessory building) on the subject property identified as a "guest house" and to reconcile the available data and photographs. The Respondent's response to the Grievance (Exhibit 2, page 7), admits that while his appraisal report includes photographs of a "guest house", that he forgot to include in his single line items.

It was noted that The Respondent did not verify data for square footage for Comparable Sale No. 2 as the basement is added in square footage. Per OKC MLS, contract dates were available, however, none are stated in the Respondent's appraisal report. The comparable sales were not summarized nor were the adjustments discussed.

The Board's Prosecutor moved next to allegation No. 15 in the First Amended Notice concerning the Respondent's omissions of large amenities in his reported descriptions of his comparable sales. Mr. McCaleb noted that the Respondent's appraisal report (Exhibit 1, pages 17 and 22; Exhibit 2, pages 12 and 17) left out large amenities such as in-ground pools that Comparable Sales No. 1, 3, 4, and 5 all had (Exhibit 2, page 37 (Comp. 1); Exhibit 3, page 24 (Comp. 3); Exhibit 3, page 32 (Comp. 4); and, Exhibit 2, page 45 and Exhibit 3, page 40 (Comp. 5)). It was noted that the Respondent's Comparable Sale No. 5 actually described the presence of a "new swimming pool" in the data sheet for that sale (Exhibit 2, page 45) in the Respondent's work file data source MLS sheets. Once again, despite having data available to him at the time he was preparing the appraisal report, the Respondent failed to disclose that four of his comparable sales had large amenities such as in-ground pools and the Respondent failed to reconcile the available

data.

Next, the Board's Prosecutor moved to the Respondent's disclosures on site value in the "Cost Approach" section of his appraisal report (Exhibit 1, page 18). While the Respondent provided a number of \$260,000 as his opinion of site value, the Respondent failed to support or show how he reached his opinion resulting in there being no way for anyone else to replicate his number for purposes of verification.

The Board's Prosecutor moved next to allegation No. 20 in the First Amended Notice concerning the Respondent's failure in the "Neighborhood" section of his appraisal report (Exhibit 1, page 16) to discuss the Oklahoma City Golf and Country Club located one (1) block away. While the Respondent's appraisal report does mention that a country club is located near the "neighborhood" as defined by the Respondent, the appraisal report does not identify the country club to be "The Oklahoma City Golf and Country Club" in Nichols Hills that is located only one (1) block away from the subject property. It was noted also that the Respondent's work file (Exhibit 2) contains no engagement letter from the client U.S. Bank, N.A.

In response to a question of whether a review appraisal had been performed on the subject property, it was noted that a copy of a review appraisal purporting to comply with Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 3-6, entitled "Appraisal Quality Compliance" was performed by Oklahoma-licensed appraiser Cassie Everett, 12452CRA, dated February 3, 2016 (Exhibit 1, pages 7-12), and is included as part of Exhibit 1.

JURISDICTION

1. The Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act as set forth at Title 59 of the Oklahoma Statutes, § 858-700, *et seq.* and to establish administrative procedures

for disciplinary proceedings conducted pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act.

2. The proceedings herein were conducted in accordance with the provisions of the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-700 *et seq.*, the Oklahoma Administrative Procedures Act, 75 O.S. §§ 301-323, and as set forth at the Oklahoma Administrative Code, §§600:15-1-1 thru 600:15-1-22.

3. The Respondent CODY J. BALES is a certified residential appraiser in the State of Oklahoma, holding certificate number 12855CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 21, 2009.

FINDINGS OF FACT

The Board adopts in full the findings of facts of the Disciplinary Hearing Panel.

1. The Respondent CODY J. BALES is a certified residential appraiser in the State of Oklahoma, holding certificate number 12855CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 21, 2009.

2. In July of 2015, the Respondent was hired to complete an appraisal (the “appraisal” or “report”) for a property located at 1809 Drury Lane, Nichols Hills, Oklahoma (the “subject” or “subject property”). The client was U.S. Bank, N.A. (the “client”). The Respondent completed and transmitted the appraisal report, with an effective date of July 20, 2015, and was for the purpose of a “purchase transaction” (Exhibit 1, page 16). The Respondent’s work file contains no engagement letter from the client (Exhibits 2 and 3).

3. The Respondent committed a series of errors in the Appraisal Report which led to a misleading and non-credible report. These errors include, but are not limited to, the following paragraphs numbered 4 through 15.

4. The Respondent neglected to report the proper specific zoning classification and zoning description of the subject property both as “R-1” (Single Family Residential) and instead incorrectly reported both the specific zoning classification and zoning description as “No Zoning” (Exhibit 1, page 16).

5. The Respondent utilized “Redfin”, a national data base, which represents that it uses Multi Listing Services (“MLS”) as a data source. Per Redfin, the subject property has had many recent updates to the kitchen and bathrooms (Exhibit 3, page 2), but the Respondent reported that there were no updates (Exhibit 1, page 16). The Oklahoma City MLS data sheets located in the Respondent’s Response to the Grievance, are dated April 13, 2016, ten months after the effective date of the Respondent’s appraisal report. The work file (Exhibit 3) contains evidence of being created after the effective date of the Appraisal Report with sales as of October 24, 2016 (Exhibit 3, pages 28 and 33), and the sale of the subject property on August 24, 2016 (Exhibit 3, page 1). The Respondent’s work file (Exhibit 3) contains no information on his comparable sales no. 2 or no. 6.

6. Although the Respondent included a guest house (accessory building) in his sketch of the subject property (Exhibit 1, page 27) and a guest house was present in his photographs of the subject property (Exhibit 1, page 25-26), the Respondent failed to report, describe or reconcile, that the subject property has a guest house (Exhibit 1, page 17).

7. The majority of the entries in the Appraisal Report are canned comments and there is nothing unique about the descriptions that are relevant to this property.

8. Data for the improved sales utilized in the Appraisal Report could not be located in the Respondent’s work file (Exhibit 3). The Respondent’s work file (Exhibit 3) contains no information on his comparable sales 2 or 6.

9. The market data contained in the Appraisal Report is not adequate or relevant. The market data was neither verified nor reconciled. The Respondent made significant errors in leaving out large amenities such as in-ground pools that Comparable Sales #1, 3, 4, and 5 all had.

10. The Respondent did not verify data for square footage for Comparable Sale #2 as the basement is added in square footage. Per OKC MLS, contract dates were available, however, none are stated in the Appraisal Report.

11. The analysis of the comparable sales contained in this Appraisal Report is not reasonable. The Respondent made significant errors in leaving out large amenities such as in-ground pools that Comparable Sales #1, 3, 4, and 5 all had. The Respondent did not verify for square footage for Comparable Sale #2 as the basement is added in square footage. The comparable sales were not summarized nor were the adjustments discussed.

12. The Respondent's site value for this Nichols Hills property is not supported (Exhibit 1, page 18). The Respondent values the site at \$260,000 (\$9.00 psf) when the median sale of 25 recent sales in Nichols Hills is closer to \$700,000 (or \$29.00 psf). The Respondent provides no support for the site value in his Appraisal Report (Exhibit 1, page 18) or in his work file (Exhibit 3) and instead states the site value was derived from a "mathematical algorithm from the extraction of site values" (Exhibit 1, page 18). In Nichols Hills there are many sales where the house is razed and new construction built. That was not addressed in highest and best use or the neighborhood description (Exhibit 1, page 16).

13. The opinions and conclusions contained in the Appraisal Report are not credible. There are significant omissions in the Appraisal Report and lack of reconciliation that makes the report not credible. The conclusions are not supported; the market data is lacking reconciled information and lacking significant data in the sales grid (Exhibit 1, pages 17 and 22). The data

provided states MLS #'s clearly shows the Respondent did not discuss the MLS data on these sales significant amenities and features were omitted in the sales comparison approach. This Appraisal Report lacks credible confirmed data which results in a misleading report.

14. The Respondent provides no discussion in the Appraisal Report of the Oklahoma City Golf and Country Club (Nichols Hills Golf Course) located one (1) block away.

15. The Respondent has shown through his Appraisal Report he is geographically incompetent.

CONCLUSIONS OF LAW

The Board adopts in full the Conclusions of Law of the Disciplinary Panel:

1. The 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 Rule 2-1 of the Uniform Standards of Professional Appraisal Practice. These include the subsections of the referenced rules.

2. The 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."

3. The 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."

4. The Respondent has violated 59 O.S. § 858-723(C)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."

5. The Respondent has violated 59 O.S. §858-723(C)(9), "Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act".

6. The 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."

FINAL ORDER

WHEREFORE, having adopted in full the Findings of Fact and Conclusions of Law of the appointed Disciplinary Hearing Panel, the Board hereby makes the following final order:

1. The appraiser credential of the Respondent Cody J. Bales shall be immediately **SUSPENDED** for a period of **ONE (1) YEAR** from the date that any final order is entered in this matter plus a period of thirty (30) days after the Respondent Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested. This suspension should immediately follow any remaining period(s) of suspension and be completed by the Respondent Cody J. Bales prior to the commencement of any period(s) of probation.

2. Respondent Cody J. Bales shall be placed on **PROBATION** for a period of **ONE (1) YEAR** beginning immediately upon the date of completion of any period(s) of suspension plus a period of thirty (30) days after the Respondent Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested. During the period of probation, Respondent Cody J. Bales shall provide an appraisal log on REA Form 3 to the administrative office of the Board no later than the fifth working day of each month detailing all his appraisal activity during the preceding month. The Board may select and require samples of work product from these appraisal logs be sent for review.

3. The Respondent Cody J. Bales shall pay an administrative fine in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)** to the Board. Payment of the fine shall be remitted to the Board in accordance with the manner contemplated by 59 O.S. § 858-723(B).

4. The Respondent Cody J. Bales shall pay all of the costs expended by the Board for legal fees and travel costs incurred in this matter. The Board staff will provide a statement of the costs incurred to Respondent with the final order. Costs shall be paid in accordance with 59 O.S. § 858-723(B).

5. Failure by Respondent Cody J. Bales to comply with any requirement of this order shall result in his appraisal credential being suspended instanter, with notification forwarded immediately to Respondent by Certified mail, return receipt requested.

THE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS 30 DAYS FROM THE DATE HE IS FIRST NOTIFIED OF THIS ORDER, EITHER PERSONALLY OR BY CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED, TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

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

Eric M. Schoen

ERIC SCHOEN, Administrative Officer
Real Estate Appraiser Board

3-6-2017

Date

Bryan Neal

BRYAN NEAL
Assistant Attorney General

3/1/17

Date



CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the 28 day of March, 2017 a true and correct copy of the above and foregoing Board's Decision as to Disciplinary Hearing Panel Recommendation was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Cody J. Bales
7919 E. 50th Street
Tulsa, Oklahoma 74145

7016 3010 0000 2706 6711

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

Nena W. Henderson, Hearing Panel Officer
1408 Sims Ave
Edmond, OK 73013

Timothy G. Wolzen, Hearing Panel Officer
PO Box 1143
Choctaw, OK 73020

Terry L. Hinkle, Hearing Panel Officer
7733 West Britton Road
Oklahoma City, OK 73132

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


Christine McEntire



RECEIVED
OKLAHOMA INSURANCE DEPT.

MAR 27 2017

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-210A

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

March 27, 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 with respect to licensee 12855CRA. The proposed action is to impose a \$1,500 fine, require payment of the Board's prosecutorial costs, and impose a one-year suspension followed by one year of probation.

The Board received a complaint from an appraisal management company following a Uniform Standards of Professional Appraisal Practice ("USPAP") complaint review on an appraisal prepared as part of a mortgage finance transaction. The appraisal was poorly prepared and misleading based on a series of significant errors and deficiencies. Specifically, the site was valued at about \$440,000 less than the median sale from 25 recent sales in the area. Further, the report contained no support for the site value in the appraisal or work file as well as incorrect zoning classifications, descriptions, omitted guest house on the subject property, a basement and in-ground swimming pools on comparables, and the golf course located one block away.

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 "[a]n act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the certificate holder or another person or with the intent to substantially injure another person," "[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," "[n]egligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal," "[w]illfully disregarding or violating any of the provisions of the...Act or the regulations of the Board for the administration and enforcement of the provisions of the...Act," 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)(5)-(9), (13). The Act requires adherence to the "current edition of" the USPAP, 59 O.S.2011, § 858-726, which is the 2016-2017 edition.

The USPAP contains professional requirements pertaining to ethics, record keeping, competency, and scope of work. See ETHICS RULE, USPAP-8 (requiring compliance with USPAP standards);

RECORDKEEPING RULE, USPAP-11 (requiring preparation of a workfile prior to the issuance of a report); and COMPETENCY RULE, USPAP-12 (requiring appraisers to be competent to perform assignment or acquire necessary competency). 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.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



SHELLY PERKINS
ASSISTANT ATTORNEY GENERAL