

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

In the Matter of WILLIAM D. MOWAT,)
)
Respondent.)

Complaint #15-036

CONSENT ORDER FOR RESPONDENT WILLIAM MOWAT

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent WILLIAM MOWAT, by and through his Counsel, Daniel J. Gamino, 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 December 3, 2014, the Board approved agreed Consent Order #14-009 with respect to Complaints #13-019, #13-026, #14-001, #14-020, #14-026 and #14-033. The agreed Consent Order provided that William Mowat (“Mowat”) would complete the 200 hours of core curriculum as set forth in the Appraiser Qualification Criteria. Mowat agreed to complete the 200 hours of education in a 12-month time frame. One-half of the qualifying education was to be completed within the first 6 months. Beginning at the 6 month mark, and after completion of one-half of the mandatory qualifying appraiser education, Mowat commenced a 30-month probation period. During the probation period, Mowat is to submit monthly work logs by the 5th day of each month for all appraisal work completed in the month prior.

2. On July 10, 2015, Mowat submitted his appraisal report for 3220 N. Roff Avenue in Oklahoma City. This appraisal was selected from Mowat’s July 2nd work log containing

appraisal assignments for the month of June. The report resulted in further regulatory concern regarding Respondent's competency. **However, since the time of this reports submission, Respondent has continued to be on probation and all the subsequent reports he submitted have successfully passed review.** Accordingly, the parties agree to this Consent Order.

3220 N. Roff Avenue, Oklahoma City, Oklahoma

3. In May of 2015, Respondent was requested by First United Bank and Trust (the "client") to complete an appraisal report (the "report") for a property located at 3220 N. Roff Avenue, Oklahoma City, Oklahoma (the "subject" or subject property"). The report was for a purchase transaction. The effective date of the report was reported as May 27, 2015.

4. Respondent committed a series of errors in the report which led to a non-credible report.

Generally

5. No analysis for the purchase contract was reported. The contract section includes checked boxes, a statement of the 'CONTRACT PRICE IS \$99,500'. The appraiser is expected to provide the results of the contract analysis. (i.e.; is it a normal/typical purchase agreement; how many pages; any addendums; any personal property; any additional provisions such as builder upgrades, etc.).

6. Current MLS listing information is not adequate. The form asks to report data sources, offering prices and dates. The appraiser provided the original price, a number (587336) which the reader must assume is an MLS number, and days on market. Part of the analysis and reporting would include the data source used, complete sentences so the reader could understand that this is or is not a current listing/pending sale (expired/released/etc.); when it was listed for

sale, any price changes, etc. The appraiser could use more description to help the reader of the report to better understand what is going on with this listing and purchase contract.

The Neighborhood Section

7. The neighborhood boundaries reported are too broad. The one unit housing prices/ages are not consistent with findings using the same neighborhood boundaries. Home prices in the past year have sold from \$15,000 to \$501,000. The predominant value is \$95,000.

8. Ages range from 1-100 years with the predominant age being 64 years. There was a 2-month supply of housing at the time of this appraisal with average days on market of 55 days. Narrative comments in the report addendum state a balance with 0-180 day marketing time which is vague when an argument could be made for a shortage of inventory. These results could vary depending on how the appraiser defines the neighborhood, but in this case the appraiser should know that this neighborhood is smaller than described. This neighborhood should not extend East of I-44.

Description of Improvements

9. The narrative fields in the improvements section contain very little data. The Multi Listing Service ("MLS") listing from this time reflects a home with many updated areas like remodeled bathroom; new flooring, and paint. The pictures on the MLS show a home that has seen some recent updating in the kitchen and bathroom. There is a room addition that is evident and resulted in a 3rd bedroom. There is no indication of these improvements in this section of the URAR form.

Cost Approach

10. The reported effective age is 15 years. The Cost approach indicates 45 years remaining economic life. The Cost source cited is Marshall & Swift. The total life span for this

quality of home should be 55 years for an average quality home. The appraiser is working off a 60 year life span (15 +45).

11. The Respondent reports “actual closed sales of vacant sites” as the source for the site value, in addition, also sites “allocation”. The opinion of the site value is overstated. This is not a residential lot that is marketable at \$27,000. There were two land sales in this area in the past few years at \$3,000 & \$13,000 respectively (3721 Williams & 4079 NW 30th Ter). Cost approach results are 15% higher than the purchase price.

Sales Comparison Approach

12. The appraiser is using abbreviations that may not be clear to the reader of the report. No legend was found to clarify what WDPV & STG mean. The subject has a storm shelter, as well as Comparable 2, but no storm shelter appears to be reported under Comparable 2. There is no explanation as to how the appraiser derived the \$1,000 adjustment for a 2 bedroom house versus a 3 bedroom house. There is no indication that the comparables with smaller sites are less functional or have a difference in surplus land value. No comments were found as to how or why the concessions adjustment is applied to Comparable 1.

Final Reconciliation

13. The Respondent did not explain why the value is based on the sales approach and not more on the cost approach. The reconciliation is an opportunity for an appraiser to explain the strengths and weaknesses of the approaches used, or omitted. Now, generally the sales comparison is most appropriate for this type of property; however, as a reader of the report, the reader should understand why the sales comparison is more relevant and why the cost approach was not given equal or considerable weight in the final reconciliation.

**Successful Completion of Core Curriculum and Subsequent Reports Reviewed by the
OREAB**

14. Since this report was completed, Respondent has completed an additional 127 hours of appraisal education.

15. Since this report was reviewed by the Board, Respondent has had 9 reports reviewed by the Board which have passed the minimum score to be deemed compliant..

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 Competency rule of the Uniform Standards of Professional Appraisal Practice Ethics Rule;

B) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, and 1-6; Standards Rules 2, 2-1, 2-2, and 2-3 of the Uniform Standards of Professional Appraisal Practice. These include the sub sections of the referenced rule.

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."

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 has done so, 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 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 understands that this Order must be approved by the Attorney General should the Board approve it before it becomes effective.

ORDER

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

1. Respondent is officially reprimanded by the Board; and
2. An administrative fine in the amount of Five Hundred Dollars (\$500), to be paid in accordance with 59 O.S. §858-723(B)(2).

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 suspended instanter until compliance occurs.

RESPONDENT:

William Mowat
WILLIAM MOWAT

4-19-2017
DATE

Daniel J. Gamino
DANIEL J. GAMINO, Attorney for Mowat

4-20-2017
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 McCaleb
STEPHEN MCCALED, OBA #15649
Board Prosecutor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

DATE

IT IS SO ORDERED on this 3rd day of May, 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 19th day of May, 2017 a true and correct copy of the above and foregoing Consent Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Daniel J. Gamino
Jamestown Office Park, North Building
3035 NW 63RD Street, Suite 214
Oklahoma City, OK 73116

7016 0340 0000 7986 7288

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

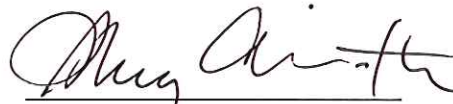
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Sherry Ainsworth



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MAY 17 2017

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

Real Estate Appraiser Board

ATTORNEY GENERAL OPINION
2017-377A

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

May 17, 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 11022CRA. The proposed action is to impose a \$500 fine and an official reprimand.

A grievance was filed against the licensee resulting from an appraisal report as part of a purchase transaction. In December 2014, the licensee entered into a consent agreement which required the licensee to complete 200 hours of the core curriculum in a 12-month timeframe with one-half to be completed within the first 6 months. After 6 months and completion of one-half of the education requirements, the licensee commenced a 30-month probation period during which the licensee was required to submit monthly work logs for completed appraisal work to be reviewed by the Board's Standards and Disciplinary Procedures Committee. A staff complaint was filed against the licensee for receiving a failing score on an appraisal report from the Committee. The licensee scored an "unacceptable" rating in the categories of "Appraisal Practices and Procedures," "Logic and Reasoning," and "Adjustments." The written findings of the reviewer were similar to those resulting in the December 2014 consent agreement, including the failure to comply with the Uniform Standards of Professional Appraisal Practice ("USPAP"), which resulted in a non-credible report. Since the filing of the staff complaint, the licensee completed an additional 127 hours of appraisal education and had no other appraisal reports receiving failing scores during the remainder of the 30-month period.

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]iolat[ion] 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, which is the 2016-2017 edition. 59 O.S.2011, § 858-726.

The USPAP contains professional requirements pertaining to ethics and competency. *See* ETHICS RULE, USPAP-8 (requiring compliance with USPAP standards) and COMPETENCY RULE, USPAP-12 (requiring appraisers to be competent to perform assignment or acquire necessary competency). The 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