

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

In the Matter of MICHAEL D. DODSON,)	
)	
Respondent.)	Complaint #10-016

**BOARD’S DECISION ON
DISCIPLINARY HEARING PANEL RECOMMENDATION**

ON THE 30th day of March, 2012 the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the “Board”). The Board was represented by a Disciplinary Hearing Panel consisting of three members, James R. Artman, Randal M. Boevers, and Kelly R. Bridges that held a hearing on February 22, 2011. James R. Artman was elected and served as Hearing Panel Chairman. Said panel was represented by the Board’s attorney, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board’s prosecutor, Stephen L. McCaleb. The Respondent, Michael D. Dodson, appeared represented by counsel, Daniel J. Gamino after having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel by certified mail with return receipt requested pursuant to the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

Upon remand from the Oklahoma District Court Judge Bryan C. Dixon, in the Matter of Michael D. Dodson v. Oklahoma Real Estate Appraiser Board; Case No. CV-2011-56, oral argument was again presented by Daniel J. Gamino, counsel for the Respondent, and Stephen McCaleb, the Board’s prosecutor. Briefs pertaining to oral argument were timely filed by both attorneys and presented to the Board for review.

The Board, being fully advised in the matter, makes the following Order adopting the Panel’s Recommendation.

JURISDICTION

1. The Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*
2. That the proceedings were conducted in accordance with the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*, and the Oklahoma Administrative Procedures Act, 75 O.S., § 301-323.
3. That Respondent That Respondent MICHAEL D. DODSON is a certified residential appraiser in the State of Oklahoma, holding credential number 10840CRA and was first credential with the Oklahoma Real Estate Appraiser Board on March 8, 1993.

FINDINGS OF FACT

The Board adopts in full the findings of the Hearing Panel that the following facts were proved by clear and convincing evidence.

1. That Respondent MICHAEL D. DODSON is a certified residential appraiser in the State of Oklahoma, holding credential number 10840CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 8, 1993.
2. On or about November 10, 2009, MLC Mortgage Corporation (the “client”) hired Respondent to complete an appraisal on the subject property (the “appraisal”) which is located at 5808 Sandage Drive, Edmond, Oklahoma (the “subject property”).
3. The appraisal’s date of appraised value was reported as November 11, 2009. Respondent reported a final estimate of value as Two Hundred Sixty-Two Thousand Dollars and 00/100 (\$262,000.00). The report was submitted to the client.
4. Errors were committed in the report, including but not limited to, the following contained in paragraphs 4-9.
5. Respondent failed to analyze the current listing. Neither the listing price nor days on the market were reported in the appraisal. Respondent also failed to analyze the Contract and

seller concessions (\$6,900 in improvements paid by the seller).

6. The information reported by the Respondent in the site section is not complete and accurate.

- a) The property is zoned as A, which is for single family residential in Edmond. Respondent incorrectly reported the zoning as R-1;
- b) The Respondent failed to report that there is a large oil well easement across the property on the original plat. There is a 200' building restriction from the oil well and a 300' water well restriction according to the plat. The Respondent failed to put the client on notice of these platted easements.

7. Two of the comparable sales selected by the Respondent were not locationally, physically, and functionally similar to the subject property due to their being new construction. Adjustments for age/condition were not supported or accurate.

- a) The subject is a twenty year old home on 1.8 acres. Comps 2 and 3 are new construction on small lots in neighborhoods with homeowners associations.
- b) Comparables 2 and 3, which are new construction, are in no way comparable to the subject property.

8. The data and analysis presented in the sales comparison approach is not complete and accurate.

- a) Many of the adjustments are unsupported and/or inconsistent. The adjustment for a gated community in comparable 2 is not supported.
- b) The site adjustment is not supported nor is it logical. Comparable 2 is new construction on a \$51,000 lot, the Respondent estimates the subject site at \$30,000 (while the county assessor's site value is \$75,000 plus) but makes

a \$4000 plus adjustment to Comparable 2. Comparable 3 is new construction on a \$39,000 lot and the Respondent makes a \$4000 plus adjustment. The age adjustments are unsupported with actual lot value being ignored. Respondent did not research any lot sales in comparable additions with acreage home sites or actual lot prices for the comparable sales utilized in his report.

9. Respondent's data and analysis in the cost approach is not complete and accurate.
 - a) The Respondent states that the site value is based on the county assessor data. This is not a recognized method of site valuation. (See #8 (b) above).
 - b) Regardless, the Respondent incorrectly reported the assessor's estimate of the land value, as his reported site value of \$30,000 conflicts with what is reported by the county assessor: \$75,150 (in 2010); more than double that of the Respondent's estimate that was based on the assessor data.
 - c) The reported pool house/shop contributes less than the physically depreciated value. Therefore functional obsolescence must exist with the subject property and was not reported.

10. That Respondent's appraisal report stated, in the Appraiser's Certification, that the appraisal was developed and the report prepared in conformity with the Uniform Standards of Professional Appraisal Practice.

11. The Respondent's errors in his report (omissions, unsupported adjustments, lack of adequate explanations and disclosures, etc.) result in a misleading report.

CONCLUSIONS OF LAW

The Board adopts in full the conclusions of law entered by the Hearing Panel:

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

- A) 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) Standards Rules 1, 1-1, 1-2, 1-4, 1-5, 2 and 2-1 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)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."

RECOMMENDED DISCIPLINE

WHEREFORE, the Board having adopted in full the Findings of Fact and Conclusions of Law as set forth above, sets for the following Final Order adopting fully the Recommendation of the Hearing Panel.

1. Respondent shall be placed on probation for a period of one (1) year beginning on the date of receipt of the final order in this matter during which period Respondent will submit a log of all of his appraisals to the administrative office of the Board not later than the fifth day of each month and will provide copies of any appraisal reports and work files upon request of the Board during the period of probation.

2. Respondent be required to successfully complete corrective education as follows:

- **Course No. 612 - FIFTEEN (15) HOURS** of Residential Site Valuation and Cost Approach;
- **Course No. 613 - THIRTY (30) HOURS** of Residential Sales Comparison and Income Approaches; and

The course must be completed with a copy of the certificate of course completion transmitted to the administrative office of the Board within **ONE (1) YEAR** from the date of any Board order accepting this recommendation. The course must be tested. Respondent may receive credit towards the 42 hours of continuing education he is to take every three-year licensing cycle.

3. Respondent should be assessed prosecutorial costs not to exceed the amount of \$1,000; with said costs to be paid as set forth at 59 O.S. § 858-723 B;

Should Respondent fail to comply with any of the terms and conditions set forth in the order, the Board's Director shall suspend Respondent's appraiser credential instanter; shall immediately notify the Respondent of said suspension by certified mail, return receipt requested; and shall immediately notify the National Registry of such suspension; and the credential shall remain suspended until such time as Respondent is in full compliance

THE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED THIS 30th day of March, 2012



Handwritten signature of Christen Watson in blue ink.

CHRISTEN WATSON, Board Secretary

Handwritten signature of Bryan Neal in black ink.

BRYAN NEAL, Assistant Attorney General
Counsel to the Board

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the 6 day of April, 2012, a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was placed in the U.S. Mail by certified mail, return receipt requested to:

Daniel J. Gamino

Daniel J. Gamino & Associates, P.C.
3315 N.W. 63rd Street
Oklahoma City, Oklahoma 73116
Counsel for Respondent

7010 3090 0000 3334 9565

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

James R. Artman, Hearing Panel Officer

4612 Foxbrough Court
Norman, Oklahoma 73072

Randal M. Boevers, Hearing Panel Officer

23765 White Road
Muskogee, Oklahoma 74434

Kelly R. Bridges, Hearing Panel Officer

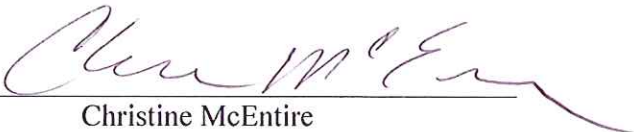
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