

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

In the Matter of **DIANE L. SCHUMACHER,**)
)
Respondent.)

Complaint #05-091

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

ON THE 7th day of March, 2008, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Disciplinary Hearing Panel (the "Panel") making the recommendation consisted of three members, Dana L. Norton, James A. Pratt, and Richard E. Riley. Dana L. Norton was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant Attorney General Joann Stevenson. The case was prosecuted by the Board's prosecutor, Stephen L. McCaleb. The Respondent, Diane L. Schumacher, appeared pro-se 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 Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

The Board, being fully advised in the matter, making the following Order adopting in part and amending in part the Panel's Recommendation:

JURISDICTION

1. That the Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*
2. That the proceedings were conducted in accordance with the Oklahoma 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 Diane L. Schumacher is a State Licensed Real Estate Appraiser in the State of Oklahoma, holding credential number 10937SLA and was first credentialed with the Oklahoma Real Estate Appraiser Board on June 2, 1993.

FINDINGS OF FACT

The Board adopts in full the recommendation of the Panel that the findings of fact as set forth in the subsequent paragraphs were proved by clear and convincing evidence:

1. In May of 2000, Centex Home Equity (the “client”) hired Respondent to appraise a parcel of property located at 103 East Young Street, Tulsa, Oklahoma 74106 (the “subject property”).

2. On or about May 19, 2000, Respondent prepared and signed an appraisal report (the “report”) on the subject property and transmitted said report to the client. The appraisal’s date of appraised value was reported as May 17, 2000, and Respondent reported a final estimate of value as One Hundred Forty Three Thousand and 00/100 dollars (\$143,000.00). Said report was purportedly performed in conformity with the Uniform Standards of Professional Appraisal Practice.

3. In the report, Respondent includes the basement of the subject in the gross living area (GLA) square footage. Testimony and appraisal report from Larry Stotts, who subsequently performed an appraisal of the subject property in or about October of 2004, indicated that more than 600 square feet of the basement area was “unfinished.” Respondent admitted that including this below grade area was “inappropriate” and that a portion of the basement was not “finished as well, but was heated and cooled” and lacked flooring. This below grade area should have only been included in GLA if it was finished comparably and had the same utility and no deficiencies when compared to the above grade square footage of the subject property. Respondent provided little to no explanation regarding why adjustments typically attributable to living area that is

below grade space should not be made. This overstated the GLA of the subject by perhaps as much nine hundred fifteen square feet. The square footage of the basement should have been inserted in the "Basement & Finished Rooms Below Grade" column of the appraisal and adjusted accordingly.

4. Respondent's errors artificially inflated the value of the property.

CONCLUSIONS OF LAW

That the Board adopts in full the Panel's conclusion that it was proven by clear and convincing evidence that Respondent's conduct was in violation of the following:

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

- A) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;

- B) Standards Rule 2 of the Uniform Standards of Professional Appraisal Practice;

- C) Standards Rule 2-1 of the Uniform Standards of Professional Appraisal Practice; and

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

3. That Respondent has violated 59 O.S. § 858-723(A)(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

1. That Respondent successfully complete the following courses as corrective education, which may be counted as continuing education, all courses to be taken from a sponsoring organization of the Appraisal Foundation.

- A. The tested 15-hour National USPAP course; and.
- B. An ANSI course on measuring gross living area.

2. That certificates of course completion evidencing successful completion of the above corrective education be delivered to the administrative office of the Board within **THREE (3) MONTHS** of a Board Order adopting this recommendation, or Respondent's appraisal credential shall be suspended without further Board action until successful completion of the above corrective education.

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

IT IS SO ORDERED this 7th day of March, 2008.


KIM HOLLAND, Chairperson
Real Estate Appraiser Board

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendations was mailed postage prepaid by certified mail with return receipt requested on this 13 day of March, 2008 to:

DIANE SCHUMACHER
P.O. Box 1056
Bristow, Oklahoma 74010

VIA CERTIFIED MAIL
7002 2410 0001 7593 3558

and that copies were mailed to:

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CHRISTINE M. McENTIRE, Legal Secretary
Oklahoma Real Estate Appraiser Board