

The Respondent, Michael D. Dodson of Oklahoma City, Oklahoma (“Respondent”), having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel in Complaint No. 19-012 (the “Notice”) by first class U.S. certified mail with return receipt requested to his last-known business and/or residence address on February 4, 2020, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Administrative Procedures Act, 75 O.S. §§250-323, and on July 8th, 2020, appeared in person in the hearing pro se, and was not represented by an Attorney.

The Respondent elected to have this matter recorded by electronic device and to rely on the electronic recording.

PRELIMINARY MATTERS

The Board’s Prosecutor, Mr. McCaleb, announced that in speaking with the Respondent that the Respondent stipulated to all of the allegations against him in the Notice as true and correct. The Respondent confirmed the announcement of the Board’s Prosecutor to be correct that he did so stipulate to all of the allegations.

The Board’s Prosecutor next stated that he had an Exhibit Book with five (5) exhibits that he identified and marked as (1) Exhibit 1, the Grievance against the Respondent (2) Exhibit 2, the work file of the Respondent; (3) Exhibit 3, Board Data prepared by an appraiser witness he intended to call named Rod Bien; (4) Exhibit 4, Compilation of Exhibit Pages corresponding to Notice paragraphs; and (5) Exhibit 5, Prior Board Orders. The Respondent was afforded the opportunity and time he indicated he needed in which to examine the Exhibit Book with the five (5) exhibits.

The Board’s Prosecutor subsequently moved for the admission of the five (5) exhibits for the Board marked as Exhibits 1, 2, 3, 4, and 5, respectively, to which there was no objection by the Respondent. Accordingly, the five (5) exhibits were admitted into evidence.

An examination of the Exhibit Book with its five exhibit, consisted of the following: Exhibit 1 consisted of a document identified to be the Grievance (page 1) against the Respondent, a copy of the Respondent's written appraisal report on the subject real property dated December 27, 2018 (9600 Abby Lane, Yukon, Oklahoma 73099), with an Opinion of Value of \$750,000.00 attached (pages 2-33), and prior Board Orders (pages 34-61) [relocated to end of Exhibit 5 with other prior Board Orders].

Exhibit 2 was a document identified by Mr. McCaleb in the Hearing to be the Respondent's work file.

Exhibit 3 was Board Data, an addendum attachment prepared by an appraiser witness he intended to call named Rod Bien (pages 1-58).

Exhibit 4 consisted of a Compilation of Exhibit Pages (pages 1 – 28) corresponding to Exhibit Pages (9600 Abby Lane, Yukon, Oklahoma 73099, physically located in the territorial limits of Oklahoma City, Oklahoma).

Exhibit 5 consisted of the Prior Board Orders involving the Respondent (pages 1 – 40).

Neither the Respondent nor the Board as parties to these proceedings requested that a court reporter record this matter and neither the Respondent nor the Board as parties to these proceedings submitted any proposed findings of fact or proposed conclusions of law to the Disciplinary Hearing Panel for their consideration.

The Board's Prosecutor stated that due to the Respondent's stipulation to all of the allegations in the Notice, he wished to proceed to the penalty phase in this proceeding.

The Board's Prosecutor stated that in this case, there is wrong zoning, wrong city (the subject is located in Oklahoma City, not in Yukon (mailing address)), and that this is the Respondent's fifth disciplinary proceeding. The Respondent's past disciplinary orders comprise the Board's Exhibit 5.

The Respondent's first disciplinary proceeding (Complaint 10-016) was in heard by the Board on April 1, 2011 (Exhibit 1, p. 55-61) (appealed to Oklahoma County District Court, Case No. CV-2011-56, and remanded back to Board by the District Court; heard by the Board on remand on March 30, 2012, adopting the Panel's recommendation, (Exhibit 1, p. 48-54)) [both relocated to front of Exhibit 5] with the same issues involved as exist in the current Complaint 19-012 with the Cost Approach not supported, resulting in a 1 year probation, ordered to pay \$1,000 in costs of proceedings, and 45 hours of corrective education.

The Respondent's second disciplinary proceeding involved two complaints (Complaints 16-031 & 16-036) with no support for site value, resulting in a Consent Order to complete the "core curriculum" of 200 hours of education within a 1 year period, and a 30 month probation (Exhibit 1, p. 34-47) [relocated to front of Exhibit 5].

The Respondent's third and most recent disciplinary proceeding, Complaint 18-003A, resulted in a Consent Order to complete the "core curriculum" of 200 hours of education within a 1 year period, and a 30 month probation (Exhibit 5, p. 1-40).

The Board's Prosecutor noted that the Respondent has responded and has cooperated in this matter, that the Respondent has admitted to the allegations in this matter, and that the Respondent has repeated violations of the same statutes.

The Respondent presented no exhibits as part of his defense in this matter.

WITNESSES AND EVIDENCE PRESENTED

The Board's Prosecutor presented no witnesses in support of the case against the Respondent due to the announcement of the Respondent that he stipulated to all of the allegations against him in the Notice as true and correct. The Respondent testified on his own behalf in his defense and presented no other witness.

Michael D. Dodson Testimony (Summary)

The Respondent, Michael D. Dodson, upon being duly sworn in, testified that this appraisal assignment was complicated, that the comps were difficult, the property in Perry, Oklahoma, was located on a golf course so the comps were not easy, the property in Okarche, Oklahoma, comp was a \$1,000,000 house, and there was a stripped down property with everything brand new. There was a Contract for Sale in the amount of \$190,000, said a lady (not identified) appraised the property at \$160,000, while his value was \$185,000, that this guy used his appraisal to go after the lady appraiser, the property was out between Yukon and Piedmont, and there were no comps out there. The Respondent, continuing, stated that he's done this work since 1982, that he has paid all of his fines in the past, that he has made changes, that he is 61 years of age, his wife works in the home, that he can't contemplate a suspension of his license, that he has 16 orders waiting, that he tries to keep his clients, that he can't get new clients due to his past discipline, that he takes more time to research orders prior to acceptance, that he tries to slow down, and that he thinks that over 38 years that he has done 10,000 reports.

Respondent, Michael Dodson, timely filed a Request for Oral Argument in conjunction with the filing of an Entry of Appearance by his now attorney, Rachel Lawrence Mor. Ms. Mor and the Board's prosecutor, Stephen L. McCaleb, appeared at the Board meeting and presented oral argument.

JURISDICTION

1. The OREAB has the duty to carry out the provisions of the Oklahoma Certified Real Estate Appraisers Act as set forth at Title 59 of the Oklahoma Statutes, §§858-701, *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 OREAB has promulgated rules and regulations to implement the provisions of the Oklahoma Certified Real Estate Appraisers Act in regard to disciplinary proceedings as set forth at the Oklahoma Administrative Code, §§600:15-1-1 thru 600:15-1-22, including administrative hearings.

3. The Respondent, MICHAEL D. DODSON, is a certified residential appraiser in the State of Oklahoma, holding certificate number 10840CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 8, 1993.

AGREED FINDINGS OF FACT

The Board hereby adopts in full the Agreed Findings of Fact of the Disciplinary Hearing Panel as follows:

The Respondent, MICHAEL D. DODSON, is a certified residential appraiser in the State of Oklahoma, holding certificate number 10840CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 8, 1993.

1. In December of 2018, the Respondent was hired to complete an appraisal (the “appraisal”) for a property located at 9600 Abby Lane, Yukon, Oklahoma 73099 (the “subject property”). The Respondent completed the appraisal with an effective date of December 27, 2018.

2. The Respondent committed a series of errors in the appraisal report which led to a misleading and non-credible appraisal report. These errors include, but are not limited to, the following in paragraphs 4-21.

SITE/HIGHEST AND BEST USE

3. SITE NOT ADEQUATELY DEFINED: The subject property is located within Oklahoma City Limits, with a Yukon mailing address. The appraisal report lacked such clarification.

4. ZONING NOT ACCURATELY REPORTED: According to the Oklahoma City

Zoning Map, the subject property is zoned AA Agricultural rather than RR Rural Residential as cited in the appraisal report.

5. HIGHEST AND BEST USE NOT ANALYZED: Although the appraisal report provided an opinion to the Highest and Best Use, and the current use was stated, it failed to summarize the support and rationale for that opinion.

DESCRIPTIONS OF IMPROVEMENTS

6. As described further, relevant characteristics of improvements and any effect they have on value were not adequately described; additionally, personal property, trade fixtures or intangible items that were not real property, but included in the appraisal report, were not adequately described and considered in the valuation process.

7. DEPRECIATION ITEMS (functional) NOT CORRECTLY IDENTIFIED/ANALYZED: Since the Cost Approach did not include the Subject's shop, storm shelter and iron fencing, the Reader of the appraisal report is unable to determine if the Cost of these attributes were properly depreciated when compared to the market value assigned to these attributes in the Sales comparison analysis.

8. RECOGNIZED METHODS AND TECHNIQUES NOT CORRECTLY EMPLOYED: See the deficiencies denoted above.

SALES COMPARISON APPROACH

11. INAPPROPRIATE METHODS UTILIZED / INADEQUATE REASONING TO SUPPORT THE CONCLUSIONS: It appears that the appraisal report utilized Sales which are the most proximate and similar to the subject property. However, with regard to adjustments, the appraisal report mostly only "stated" the adjustments rather than explain how they were determined.

12. INADEQUATE SALES VERIFICATION: The verification source reported in the appraisal report for Sales 1-4 was County Assessor Data. However, that source alone is not adequate without additional information such as book/page, HUD1 statement, interview with parties, etc.

13. Gross Living Area Discrepancies were not disclosed or analyzed:

Subject: Appraisal report indicated 4,572 square feet (“sf”) while Assessor indicated 4822 sf.

Sale 1: Appraisal report indicated 5,144 sf while Assessor indicated 4849 sf.

Sale 2: Appraisal report indicated 5,146 sf while Assessor indicated 4531 sf.

Sale 4: Appraisal report indicated 4,222 sf while Assessor indicated 4847 sf.

Listing 6: Appraisal report indicated 5,062 sf while Assessor indicated 4348.

14. Comparable Sales features not adequately disclosed or analyzed: The aerial image revealed that Sale 4 is a Northwood Lake lot, not adequately analyzed in the appraisal report. Northwood Lake is a private lake which is one of the very few in the metro area which allows motorboats and water skiing. As such, the lake lots command a premium price.

15. INADEQUATE REASONING PROVIDED FOR ADJUSTMENTS AND CONCLUSIONS: See Inappropriate Methods Utilized, above. The adjustments were stated though not adequately supported.

16. INCORRECTLY EMPLOYED RECOGNIZED METHODS AND TECHNIQUES: The appraisal report correctly employed the Sales Comparison Analysis Approach, however, failed to provide adequate support for the adjustments.

INCOME APPROACH

17. EXCLUSION OF THE INCOME APPROACH NOT ADEQUATELY SUPPORTED: The appraisal report indicated the Income Approach was not shown due to the limited consideration given to rental potential by purchasers in the subject value range. However, this commentary is not acceptable without additional verbiage added to the Scope of Work which indicates the development of the Income Approach was not necessary in order to arrive at a credible market value.

FINAL RECONCILIATION

18. QUALITY OF DATA AVAILABLE AND ANALYZED WITHIN THE APPROACHES USED, NOT ADEQUATELY RECONCILED: The appraisal report utilized the most appropriate Value Approaches (Cost and Sales Comparison), however, it failed to provide support for the Subject property's lot value, and did not include and depreciate Subject property amenities in the Cost Approach. The appraisal report failed to provide support for adjustments applied to the utilized Sales in the Sales Comparison Approach. The appraisal report included gross living area for the utilized Comparables which were inconsistent with County Assessor record, not explained.

19. APPLICABILITY OF APPROACHES USED, NOT ADEQUATELY RECONCILED: The appraisal report utilized the most suitable approaches (Cost and Sales Comparison), however failed to adequately reconcile the conclusions and adjustments.

20. APPRAISAL REPORT LACKS SUFFICIENT INFORMATION TO ENABLE THE READER TO UNDERSTAND IT PROPERLY:

1. Subject property's zoning, reported in the appraisal report, was incorrect.
2. Subject property's lot value, reported in the Cost Approach, was not adequately supported.

3. Subject property's amenities such as the shop, storm shelter and iron fencing not disclosed or depreciated in Cost Approach.
4. The adjustments applied to the Sales were not adequately supported.
5. Gross Living Area discrepancies on the Subject property and utilized Sales were not disclosed or analyzed.
6. The final value conclusion was not adequately reconciled.

21. SALIENT AND FACTUAL DATA NOT REPORTED IN A CONSISTENT MANNER: Incorrect reporting of the Subject property's zoning. Gross Living Area discrepancies on the utilized Sales not disclosed or analyzed.

CONCLUSIONS OF LAW

The Board hereby adopts in full the Conclusions of Law of the Disciplinary Hearing Panel as follows:

1. The Respondent Michael D. Dodson has violated 59 O.S. §858-723(C)(6) through 59 O.S. §858-726, in that the Respondent violated:
 - A) The Ethics Rule and Conduct Sections 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 Rules 2-1, and 2-2 of the Uniform Standards of Professional Appraisal Practice. These include the sub-sections of the referenced rules.

2. The Respondent Michael D. Dodson 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 Michael D. Dodson 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 Michael D. Dodson 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 Michael D. Dodson 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”.

FINAL ORDER

Having adopted in full the Findings of Fact and the Conclusions of Law of the Disciplinary Hearing Panel, the Board hereby modifies the Disciplinary Hearing Panel Recommendation and issues its Final Order as follows:

1. The Respondent Michael D. Dodson’s Oklahoma license as a certified residential appraiser in the State of Oklahoma, certificate number 10840CRA, shall be **SUSPENDED** for a period of **THIRTY (30) DAYS** beginning immediately upon the date that any final order is entered in this matter plus a period of thirty (30) days after Respondent Michael D. Dodson, is notified of the final agency order either personally or by certified mail, return receipt requested.

2. Michael D. Dodson shall be placed on **PROBATION** for a period of

ONE (1) YEAR beginning immediately upon the date that the period of **THIRTY (30) DAYS** in which suspension is ordered hereinabove to be completed shall end plus a period of thirty (30) days after the Respondent is notified of the final agency order either personally or by certified mail, return receipt requested. During the period of probation, Respondent Michael D. Dodson 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, to include for review the appropriate work file of the Respondent Michael D. Dodson.

3. Failure by Respondent Michael D. Dodson, to comply with any requirement of this order shall result in his appraisal credential being suspended instanter, with notification forwarded immediately to Respondent Michael D. Dodson, either personally or by Certified U. S. 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 9th day of October 2020



ERIC SCHOEN, Administrative Officer
Real Estate Appraiser Board

October 9, 2020
Date



BRYAN NEAL
Assistant Attorney General and
Attorney for the Board

October 9, 2020
Date



CERTIFICATE OF MAILING

I, Jenelle LePoint hereby certify that on the 18th day of November, 2020 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:

Rachel Lawrence Mor
Landmark Towers West, Suite 1000
3555 N.W. 58th Street
Oklahoma City, Oklahoma 73116

and by First Class Mail to:

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


JENELLE LEPOINT



OFFICE OF THE ATTORNEY GENERAL
STATE OF OKLAHOMA

RECEIVED
OKLAHOMA INSURANCE DEPT.

NOV 12 2020

Real Estate Appraiser Board

ATTORNEY GENERAL OPINION
2020-34A

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

November 12, 2020

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 10840CRA. The licensee was previously disciplined and was on probation. *See* A.G. Opins. 2017-520A, 2019-199A. While on probation, the licensee performed an appraisal that failed to meet the required standards. The Board proposes to suspend the license for 30 days, and upon completion of the suspension, place the license on probation for one year.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board suspend and revoke certificates pursuant to the disciplinary proceedings and require payment of fines. *See* 59 O.S.Supp.2020, § 858-723(A)(2), (3). 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.

A handwritten signature in blue ink that reads "Mike Hunter".

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

A handwritten signature in blue ink that reads "Ethan Shaner".

ETHAN SHANER
DEPUTY GENERAL COUNSEL