



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-1831

July 12, 2010

Second Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met July 12, 2010 at 8:50 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairman, Herbert Phillips, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

Herbert Phillips
James E. Wade, Jr.
Thomas R. Carter
William R. Flowers, Jr.
Dr. Edward A. Baryla
Marc Headden

COMMISSION MEMBERS ABSENT

Najanna Coleman
Erik Sanford

STAFF MEMBERS PRESENT

Nikole Avers, Administrative Director
Aminah Saunders, Staff Attorney

ADOPT AGENDA

Mr. Flowers made the motion to accept the agenda and it was seconded by Mr. Wade. The motion carried unopposed.

MINUTES

The June 2010 minutes were reviewed. Mr. Headden made the motion to accept the minutes as written. It was seconded by Mr. Flowers. The motion carried unopposed.

GENERAL BUSINESS

ELECTION OF OFFICERS

Mr. Wade made a motion to appoint Commission member Carter as the new Chair of the Real Estate Appraiser Commission and to appoint Commission member Baryla as the new Vice-Chair. Mr. Headden seconded that motion. The motion carried unopposed. Mr. Phillips handed over the gavel to Mr. Carter to conclude the Commission meeting business.

Experience Interviews

Joseph Patrick Gibson made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Woodford was the reviewer passed along his recommendation to Mr. Flowers. Mr. Flowers recommended approval of Mr. Gibson's experience request. Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Andrew Jason Buford made application to upgrade from a registered trainee to become a licensed real estate appraiser. Mr. Carter was the reviewer and he recommended approval of his experience request. Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Meredith Anne Dominguez made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Carter was the reviewer and he recommended the applicant submit two more reports for review. Mr. Phillips made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

Connie A. Norton made application to upgrade from a licensed real estate appraiser to become a certified residential real estate appraiser. Mr. Headden was the reviewer and recommended approval of her experience request. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Michael W. Meade made application to upgrade from a licensed real estate appraiser to become a certified residential real estate appraiser. Mr. Phillips was the reviewer and recommended approval of his experience request. Mr. Wade made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

Scott Allen Sewell made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Flowers was the reviewer and recommended approval of his experience request. Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Brittany Leigh Roberts made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Flowers was the reviewer and recommended approval of her experience request. Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Paul Anthony Todaro made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Wade was the reviewer and recommended approval of his experience request. Mr. Phillips made the motion to accept the recommendation and Dr. Baryla seconded the motion. The motion carried unopposed.

Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendations to the Real Estate Appraiser Commission, as seen below. Mr. Flowers made a motion to accept Dr. Baryla's recommendations. Mr. Phillips seconded the motion. The motion carried unopposed.

July 2010 Education Committee Report

Course Provider	Course #	Course Name	Instructors	Hrs.	Type	Rec.
McKissock	1410	On-line The Nuts and Bolts of Green Building for Appraisers	Richard McKissock	3	CE	for
McKissock	1411	On-line Foundations in Sustainability: "Greening" the Real Estate and Appraisal Industries	Richard McKissock	7	CE	for
Appraisal Institute	1412	On-line Appraisal Curriculum Overview- General	Mark Rattermann	7	CE	for
McKissock	1407	On-line Appraising and Analyzing Office Buildings for Mortgage Underwriting	Bruce Coin	7	CE	for
Dynasty School	1408	On-Line Mortgage Fraud- A Dangerous Business	Robert Ableson	7	CE	for
Dynasty School	1409	On-Line Real Estate Finance	Robert Ableson	28	CE	for
Atlanta Area Chapter Appraisal Institute	1413	Step up to Leadership & Stand-out in Your Real Estate Appraiser Career	Leslie Sellers; Jean Moss; Ted Anglyn; Hugh Bass; Brad Carter; Dan Fries; Jake Knight; Dennis Key; Lisa Jenkins; Don Johnson Hank Wise; Jeff Bowling	7	CE	for
The Columbia Institute	1414	New Technologies for the Appraiser, No. 056	Wayne Pugh	4	CE	for
The Columbia Institute	1415	Appraising 2-4 Family Properties, No. 135	Harrison; Boarnet; Brown; Fisher; Jacob; Henderson; Molloy; Reynolds	8	CE	for
The Columbia Institute	1416	Practice of Appraisal Review- FHA Protocol, No. 145	Harrison; Boarnet; Brown; Fisher; Jacob; Henderson; Molloy; Reynolds	8	CE	for
The Columbia Institute	1417	2010 Appraisal Summit & Expo, No. 200	Harrison; Boarnet; Brown; Fisher; Jacob; Henderson; Molloy; Reynolds	14	CE	for

Individual Course Approval

Name	License #	Provider	Course Name	Hrs	Type	Rec.
Matthew C. Jennings	4469	Wilson Educational Group	National USPAP Update Course 2010-11	7	CE	for
Meredith Dominguez	4208	Wilson Educational Group	Statistics, Modeling and Finance	15	QE	for

LEGAL REPORT

The Chairman is signed orders in the following matters regarding which prior Commission approval has been obtained:

Norman Wayne Simmons (approved 06/10) – signed Consent Order imposing a \$2500.00 civil penalty and completion of a thirty (30) hour Sales Comparison and Income Approach course and a fifteen (15) hour USPAP course. In an appraisal report, the Respondent violated Standard Rules (SR's) 1-1(b), 1-4(a), 2-1(a), 2-2(b)(iii) & Ethics Rule: Recordkeeping Section & Conduct Section of the Uniform Standards of Professional Appraisal Practice.

1. **200902126** **Danny Wiley was the Reviewer.**

This complaint was filed by HUD and included allegations that the Respondent communicated three misleading appraisal reports which resulted in an education sanction from HUD.

In the first appraisal, HUD alleges the Respondent reported incomplete or inaccurate subject data, reported inaccurate or incomplete description of the improvements, reported inaccurate or incomplete specific data for the comparable sales, applied inconsistent or unsupported adjustments in the sales comparison approach, and failed to adequately report the analysis of the sale or transfer history of the subject property.

Regarding the first appraisal, the Respondent indicated that it was error to have identified the subject property as being located in (Town), TN, but instead should have identified the property as being located in rural (County). Respondents states that when mail is sent to the subject address, it is routed to a PO Box in (Town), TN. Respondent concedes error regarding the size of the subject and the failure to check the actual size with the sketch sent by the lender. Respondent also admitted misreporting the bathroom totals and that the size and bathroom adjustments were effected by this error. Respondent indicates that she relied on a computer to calculate distance but has since learned not to depend on these calculations for distances. As to the site adjustments, Respondents states comparable one (1) was a larger lot, but on a dead end road, overgrown with heavy undergrowth and the lot was "unattractive". Respondent states that comparable four was on a heavily traveled artery on a smaller "newer" lot with a land value of approximately \$35,000. The contract price of the subject was \$57,000 and the difference between \$35,000 and \$57,000 was +\$20,000 which was her lot adjustments for comparables four (4) and five (5). Respondent concluded that it was difficult to locate sales in this area of manufactured houses that were not a result of combining a land sale with separate sale of a manufactured house.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- There are several errors that appear to be the result of "cloning" a prior report.
- The size of the home and the bathroom count are incorrect.
- The work file documents do not contain data referenced in the appraisal report.
- It appears that the site value was not derived from a recognized method.
- There is no support included in the work file for the subject's file or the site adjustments applied to the comparable sales.

NEIGHBORHOOD

The narrative comments in this section of the report appear to be incomplete boilerplate that is not directly relevant to the subject property. The report indicates that the property is in a SUBURBAN area. It appears to be in a RURAL area. In the response letter to TREAC the Respondent refers to the area being "rural". [SR 2-2(b) (iii)]

PROPERTY DESCRIPTION

The FHA reviewer noted that the size of the home and bath count were inaccurate. In response to TREAC the Respondent stated that the size of the home and the bath count were incorrect. [SR 1-1 (b), SR 2-2 (b) (iii)]

SALES COMPARISON APPROACH

Calculation Errors

The errors in reporting the size and the bath count affect the adjustments and the value indication from the sales comparison approach. [SR 1-1 (b)]

Data Sources

The work file documents submitted by the Respondent include only MLS data. If the other data sources listed were used, but the data was not retained, then the Respondent has not met work file obligations. [ETHICS RULE: Record Keeping section]

Site Size/Adjustments

The appraisal report indicates that sale one (1) is a home on 9.13 acres, sale two (2) is a home on six (6) acres, and sale three (3) is a home on five (5) acres. These sales involve homes in different communities and different counties. The report indicates that all of the sites have similar value, and no site adjustments were applied. Given the variance in size and location, it is improbable that the sites would all have the same value. The work file documents submitted by the Respondent did not include any land sales or any other data indicating support for the lack of adjustments. [SR 1-1 (a), SR 1-4 (a)]

The report states, "*Land value is from most recent contract for property per lender.*"

Relying on a sales contract is not a recognized method for determining the market value of the site. The workfile documents contain no land sales or other data indicating that the site value was derived using a recognized method. [SR 1-1(a)]

The calculations in the cost approach are affected by the errors in the gross living area and bath count. [SR 1-1 (b)]

The value reported was \$165,000. The indicated value range from the comparable sales was \$152,600 to \$184,670. The comments in the reconciliation appear to be statements carried forward after the "cloning" of a prior report. The reconciliation section states that the comparables provide a range from \$122,050 to \$137,400. It also states that a value of \$133,000 is indicated [SR 2-2 (b) (viii)]

The Respondent has stated that the size of the home and the bath count were incorrect. There are multiple instances of incorrect/inappropriate comments attributable to the apparent "cloning" of a prior report and/or the use of boilerplate comments. Hence, the report contains a series of errors that undermine the credibility of the appraisal and the analysis. [SR 1-1 (c)]

In the **second appraisal**, the Respondent was alleged to have failed to analyze and report timely and suitable comparable sales data, reported inaccurate or incomplete specific data for the comparable sales, applied inconsistent or unsupported adjustments in the sales comparison approach, and failed to support and reconcile the value indications for the subject property.

Regarding the second appraisal, Respondent indicated that the HUD reviewer used sales of inferior product manufactured homes as comparable sales. Respondent indicates that the cost new of the property was taken into consideration because of improvements in new manufactured dwellings. Respondent states data for the comparable sales was obtained from MLS information, including financing.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The report indicates that the site value for the subject was not derived using a recognized method.
- There is no support for the site adjustments applied in the comparison analysis.
- Adjustments for the comparables' covered parking amenities were omitted.

NEIGHBORHOOD

The narrative comments in this section of the report appear to be incomplete boilerplate that is not directly relevant to the subject property. [SR 2-2(b) (iii)]

The appraisal report states that the subject property has been listed for sale in the past year, but there is no analysis of any listing. The appraisal report states that the contract for the land was reviewed, but no contract was provided for the housing unit. The report does not disclose the steps taken to obtain the contract for the housing unit. [SR 2-2(b) (vii)]

The report contains no analysis of the land contract. [SR 2-2(b) (vii)]

NEIGHBORHOOD

The narrative comments in this section of the report appear to be incomplete boilerplate that is not directly relevant to the subject property. [SR 2-2(b) (iii)]

SALES COMPARISON APPROACH

The work file documents submitted by the Respondent include only MLS data.

If the other data sources listed were used, but the data was not retained, then the Respondent has not met work file obligations. [ETHICS RULE: Record Keeping section]

The reviewer found a sale of a manufactured home on a 2.6 acre site located in immediate proximity to the subject. This appears to be the most recent, most similar sale available, but it was not included (or mentioned) in the appraisal report. The home sold for \$105,000. [SR 1-4(a)]

The appraisal report indicates that sale one (1) is a home on 3.28 acres, sale two (2) is a home on seven (7) acres, sale three (3) is a home on 9.13 acres, sale four (4) is a home on six (6) acres, and sale five (5) is a home on four (4) acres. The report states that site adjustments were made based on \$1,000 per acre; however, no adjustment was made to sale one (1), the adjustments to sales two (2) and three (3) exceed \$1,000 per acre.

Sale one (1) has a large carport and storage area. The carport is reported in the adjustment grid, but no adjustment was applied. No covered parking is reported for sale two (2). The MLS photos show a carport and a large storage building. The report indicates that sale four (4) has a garage and a workshop, but no adjustment was made. Sale five (5) does not have a garage, but the MLS listing indicates that there is a 16 x 20 shop. The shop was not reported in the adjustment grid. [SR 1-4(a), SR 2-2(b) (viii)]

The report states that the subject has no porches, patios, etc. The comparables are all reported to have porches and patios (some actually have decks), but no adjustments were applied. [SR 1-4(a), SR 2-2(b) (viii)]

The workfile documents submitted by the Respondent did not include any land sales or any other data indicating support for the site adjustments. [SR 1-1(a), SR 1-4(a)]

The report states, "*Land value is from most recent contract for property per lender.*"

Relying on a sales contract is not a recognized method for determining the market value of the site. The workfile documents contain no land sales or other data indicating that the site value was derived using a recognized method. The workfile does contain a sales contract indicating that the site was under contract for \$12,500. The reviewer found a lot sale at in immediate proximity to the subject. This one (1) acre lot sold in August 2007 for \$20,000. At the time of the appraisal the site that is the subject of the third appraisal completed by the Respondent was listed for sale with an asking price of \$28,000. That one acre site sold in December 2007 for \$28,000. [SR 1-1(a), SR 1-4(b) (i)]

The Respondent was directed to provide a true copy of the appraisal report. The report provided was incomplete. The 1004C was provided, but addenda, maps, and photographs were not provided. [ETHICS RULE: Record Keeping section]

Adjustments for parking amenities were omitted for several of the comparables. Adjustments for porches, patios, etc. were omitted for all of the comparables. A very recent sale of a similar home (with a lower sale price than the comparables used) located on the same street was not included in the adjustment grid. The errors in this complaint would all result in a higher value opinion which tends to suggest bias rather than simple error. In comments to the TREAC dated 10/17/2009 the Respondent states, in part, "*Few builders would sell when the appraised value is less than the cost to construct.*" It appears that the results may have been biased in favor of a higher value opinion. [ETHICS RULE: Conduct section]

In the third appraisal, the Respondent was alleged to have reported incomplete or inaccurate purchase/contract data, reported inaccurate or incomplete description of the subject improvements, reported inaccurate or incomplete specific data for the comparable sales, applied inconsistent or unsupported adjustments in the sales comparison approach, and failed to adequately report the analysis of the sale or transfer history of the subject property.

Pertaining to the third appraisal, Respondent states that her appraisal indicated that she had only reviewed the land contract for the subject property (not the contract for the manufactured house). Respondent states that the information provided by the review appraiser was not consistent with MLS information which Respondent deemed most reliable. Respondent indicates that plans were relied on for square footage of the subject property and that the increase in lot value from \$20,000 to \$28,000 in five (5) years was unusual.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- It appears that the size of the home was misstated throughout the report.
- The report indicates that the site value for the subject was not derived using a recognized method.
- There is no support for the site adjustments applied in the comparison analysis.

The appraisal report states that the subject property has been listed for sale in the past year, but there is no analysis of any listing. The appraisal report states that the contract for the land was reviewed, but no contract was provided for the housing unit. The report does not disclose the steps taken to obtain the contract for the housing unit. [SR 2-2(b) (vii)]

The report contains no analysis of the land contract. [SR 2-2(b) (vii)]

The report states that there was a foreclosure of the subject property on 1/17/2007. This is not consistent with the information in MLS data and tax records. MLS data reports a foreclosure in October of 2006 and a bank sale in March of 2007. Tax records show this sale was in January of 2007 rather than March 2007. [SR 1-1(b), SR 2-2(b) (viii)]

NEIGHBORHOOD

The narrative comments in this section of the report appear to be incomplete boilerplate that is not directly relevant to the subject property. [SR 2-2(b) (iii)]

The reported gross living area is not consistent with the work file documents. The appraisal report states that the home is 28' x 52'; however, a plan of the home included in the work file documents states that the dimensions are 27'4" x 48'. When manufacturers list the size of housing units it is common for the length measurement to include the length of the towing tongue. Hence, a unit that is 48' long will be listed as 52' long. The plan states that the home has approximately 1,312 square feet of living area. The appraisal report states that the home has 1,456 square feet. The FHA field review report states that the dimensions were verified as 28' x 48' (1,344 square feet). The current tax data indicates that the home has 1,344 square feet. It appears that the size of the home has been misstated throughout the report. This would affect both the comparison approach and the cost approach. [SR 1-1(b), SR 1-2(e) (i), SR 2-1(a)]

SALES COMPARISON APPROACH

The workfile documents submitted by the Respondent include only MLS data. If the other data sources listed were used, but the data was not retained, then the Respondent has not met workfile obligations. [ETHICS RULE: Record Keeping section]

The workfile documents submitted by the Respondent did not include any land sales or any other data indicating support for the site adjustments. [SR 1-1(a), SR 1-4(a)]

COST APPROACH

The report states, "*Land value is from most recent contract for property per lender.*"

Relying on a sales contract is not a recognized method for determining the market value of the site. The workfile documents contain no land sales or other data indicating that the site value was derived using a recognized method. The workfile does contain a sales contract indicating that the site was under contract for \$28,000. [SR 1-1(a), SR 1-4(b) (i)]

License History: Certified Residential Real Estate Appraiser 1/14/1992 to Present

Prior Complaint / Disciplinary History: 200705061 (Dismissed)

Reasoning and Recommendation: Counsel and the Administrative Director recommend that the Respondent be offered a Consent Order imposing a civil penalty of two thousand five hundred dollars (\$2500.00). The Respondent's credential would be DOWNGRADED from Certified Residential to Licensed real estate appraiser for a period of thirty (30) days. The Respondent would be required to complete seventy-five (75) hours of corrective education: a fifteen (15) hour Site Valuation and Cost Approach course, a fifteen (15) hour USPAP course, and at least a total of forty-five (45) hours of coursework in Residential Report Writing and Residential Applications and Case Studies within 180 days of the execution of the Consent Order. Respondent will be placed on one (1) year probation during which time Respondent would be required to submit the entire work log for review every six (6) months. The Administrative Director would pick at least one (1) appraisal for review for USPAP compliance. The violations noted by the reviewer reflect significant competency issues and negligence in appraisal report writing. The additional probation requirement would assist the Commission in monitoring the Respondent for the probationary period.

Vote: Mr. Flowers made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

2. 200902606 Danny Wiley was the Reviewer.

This complaint was filed by a government sponsored agency (HUD/FHA) and included allegations that the Respondent communicated three (3) misleading appraisal reports. This agency removed the Respondent from their panel and imposed education sanction(s). The complainant submitted three (3) appraisal field reviews with the complaint along with copies of the Respondent's appraisals.

In the first appraisal, the Respondent was alleged to have misreported the parcel number, misreported market conditions, omitted deferred maintenance, misreported the heating source, omitted the sales history of the comparable sales, and omitted seller concessions applicable to the comparable sales.

Regarding the first appraisal, the Respondent stated that the parcel number was misreported because he cloned a prior report. Respondent indicated the market conditions were correctly reported as increasing as of the date of the appraisal and that the heating source was reported correctly. Respondent stated that reviewer alleged that the Respondent failed to inspect the subject interior because deferred maintenance was not reported. Respondent states that the property was inspected twice and that deferred maintenance was not reported because it is not required. Respondent states that his client requested that the sales history for each sale be entered on the grid if less than twelve (12) months and that if the comparable doesn't have a prior sale within a year that the current sale be included in that grid box. Regarding seller concessions, Respondent states that for comparable one (1) the \$2,200 was accidentally omitted. He indicated comparable three (3) did not have a seller concession and that the HUD reviewer was in error.

EXPERT CONCLUSIONS APPRAISAL ONE (1) [alleged violations included within brackets]:

- The report indicates that prices in the area were increasing, but no market condition adjustments were applied in the comparison approach. MLS data indicates that prices in the area were stable at the time.
- There were two transfers of the subject property in the three (3) years prior to the effective date of the appraisal. One was reported but not analyzed, the other was not reported.

The report indicates that prices in the area were increasing. The reviewer analyzed MLS data and found that prices had been relatively stable in the area over the prior year. If prices were increasing, then market conditions adjustments should have been made in the comparison approach; no such adjustments were applied. [SR 1-2(e) (i), SR 2-2(b) (iii)]

COMPARISON APPROACH

The sales used appear to be among the best available.

The prior sales of the comparables are not properly reported. Sale one (1) last sold in 2001 (family sale with no consideration). Sale two (2) last sold in January 2005 for \$99,000. Sale three (3) last sold in December 2009 for \$124,000. Failure to provide the correct information is an error, but it is considered insignificant because it has no effect on the assignment results. MLS data indicates that sale one (1) included \$2,200 in concessions and sale three (3) included \$3,720 in concessions. The concessions were not reported. The concessions do not appear to have affected the sale prices of the comparables.

SALES HISTORY

The report indicates that the subject property sold in May 2006, which is within three years of the effective date of the appraisal; there is no analysis of that prior sale. The sale appears to have been a sale out of foreclosure. The appraisal report states that there were no other sales in the past three years. However, CRS records indicate that Household Financial Center acquired the home in a foreclosure action in December 2005. That transfer is also within three years of the effective date (3/4/2008). Hence, that transfer should also have been reported and analyzed. [SR 1-5(b), SR 2-2(b)(viii)]

As to the second appraisal, the Respondent was alleged to have misreported the MLS number, misreported market conditions, failed to support the effective age opinion, omitted deferred maintenance, used "forced sales" as comparable sales that were not arm's length transactions, omitted seller concessions applicable to the comparable sales, omitted the sales history of the comparable sales, failed to support the remaining economic life opinion, used photos from MLS listings in the appraisal report without disclosing source, and under-valued the residential property by indicating a value opinion of \$65,000 on March 3, 2008.

Regarding the second appraisal, the Respondent conceded he misreported MLS numbers because he cloned a prior appraisal. Respondent states that the market conditions for the subject neighborhood are stable. Respondent also states that the sales used by the reviewer did not "take into account the depressed nature of the subject development. My sales research indicates an 80% foreclosure or short sale rate. This is the market for the subject area." Respondent wrote that he did not report deferred maintenance unless it has an impact on the value. Regarding seller concessions he wrote that for comparable three (3) the \$2,400 was accidentally omitted, but it did not impact the final value.

EXPERT CONCLUSIONS APPRAISAL TWO (2)[alleged violations included within brackets]:

- Analysis of the subject's listing is incomplete.
- The report does not accurately describe the market conditions.
- Prior transfers of the comparable sales are not reported accurately.
- It appears that the Respondent prepared multiple versions of the report, but only one version was submitted to TREAC.
- The fact that the home was rented at the time of the appraisal was not disclosed.

The analysis of the subject's listing/contract is incomplete. The report does not disclose the asking price. MLS data indicates that the home was listed on November 25, 2007 with an asking price of \$75,285. The price was lowered to \$71,500 on February 2, 2008. The price was lowered to \$64,530 on February 9, 2008. The appraisal report indicates that the seller will pay all closing costs. No dollar amount was reported. The sales contract states that the seller will pay up to \$1,500 of the buyer's closing costs. The appraisal report does not indicate the date of the contract. [SR 1-5(a), SR 2-2(b) (viii)]

NEIGHBORHOOD

The report indicates that prices in the area were increasing. In the description of Market Conditions the report states, "*The market in the (Roadway) area of (County), Tennessee is currently strong.*" In a response to TREAC dated December 21, 2009, the Respondent stated, "*The subject is located in a development driven by short sales and foreclosures...My sales research indicates an 80% foreclosure or short sale rate. This is in the market for subject area.*" The description of market conditions in the appraisal report is not accurate. [SR 1-2(e) (i), SR 2-1(a), SR 2-2(b) (iii)]

The report indicates that the subject property transferred in September 2007 via quit claim deed. The prior sale of comparable one (1) is reported, but it is not analyzed. The home sold in May 2007 for \$64,333, as reported. The purchaser was Sterling Ventures, and the seller was HUD. HUD had acquired the home via foreclosure in October 2006. [SCOPE OF WORK RULE: Problem Identification section]

The information regarding prior transfers of comparable two (2) is inaccurate. That home was acquired by JP Morgan Chase Bank, N.A. in an apparent foreclosure action in December 2006. [SCOPE OF WORK RULE: Problem Identification section]

The report states, "*The GRM Approach was not used due to the non-income producing nature of subject.*" The MLS listing states, "*Currently rented for \$700/month,*" and the sales contract contains language addressing how the rental payments will be handled.

The explanation for the omission of the income approach is not adequate given that the home was rented at the time of the appraisal. The explanation for the omission of the income approach is not adequate given that the home was rented at the time of the appraisal. [SR 2-1(a)], SR 2-2(b) (viii)]

In the **third appraisal**, the Respondent was alleged to have misreported market conditions, failed to support the effective age opinion, omitted deferred maintenance, omitted seller concessions applicable to the comparable sales, used photos from MLS listings in the appraisal report without disclosing source, failed to support adjustments made for the screened deck, omitted the sales history of the comparable sales, used comparable sales much larger than the subject property, failed to support the site value opinion, failed to support the remaining economic life conclusion, failed to summarize the inspection performed on the subject property within the report, and over-valued the residential property by indicating a value opinion of \$121,000 on March 4, 2008.

Regarding the third appraisal, the Respondent indicated the market conditions should have been reported as stable, rather than “strong”. Respondent concedes that his reported effective age opinion of ten (10) years was incorrect and it would have been more appropriately twenty (20) years, and the remaining economic life should have been forty (40) years rather than fifty (50). Respondent states that he does not report deferred maintenance unless it has an impact on the value. Regarding seller concessions Respondent states that for comparable one (1) the \$4,495 was accidentally omitted, but the concession was normal and required no adjustment. Respondent states that he did use MLS photos because they are more indicative of the property at the time of sale. Respondent states that his adjustments were supported using paired sales analysis and knowledge of the market. Respondents states that the client requested that the sales history for each sale be entered on the grid if less than twelve (12) months and that if the comparable doesn’t have a prior sale within a year that the current sale be included in that grid box. Respondent states that he bracketed the size of the subject and his appraised value fall within the range of sales in the neighborhood indicated by the reviewer and that the site value was supported by vacant lot sales.

EXPERT CONCLUSIONS APPRAISAL THREE (3) [alleged violations included within brackets]:

- Significant amenities were omitted in the analysis of the comparable sales.
- The sales used were not appropriately reconciled.

The report indicates that prices in the area were increasing. The reviewer analyzed MLS data and found that prices had been relatively stable in the area over the prior year. In a response to TREAC dated December 21, 2009, the Respondent stated that prices should have been reported as stable. [SR 1-2(e) (i), SR 2-2(b)(iii)]

Most of the property description is consistent with data found in MLS and public records. The report indicates that the home had an effective age of 10 years. In a response to TREAC dated December 21, 2009; the Respondent stated that an effective age of twenty (20) years would be more appropriate. [SR 1-2(e) (i), SR 2-2(b) (iii)]

As to Sale two (2), the appraisal report indicates that the home has a two (2) car detached garage. The MLS listing states that it also has a 12 x 18 carport. This is not addressed in the appraisal report. The MLS listing also states that there is a two-room apartment (with a bath) that is attached to the garage. The apartment is not mentioned in the adjustment grid, and no adjustment was applied. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

As to Sale three (3), the MLS listing indicates that this home has a renovated kitchen. This was not addressed in the comparison approach. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

The report states that all sales were given equal consideration. This is not appropriate. Sale one (1) is very similar in size, and it is located on the same street as the subject. Sale two (2) is over 40% bigger than the subject. Sale three (3) is a larger, brick home with a renovated kitchen. Sale four (4) is a basement home. Sale one (1) is more similar and should be given more consideration. [SR 1-6(a)]

License History: Certified General RE Appraiser 12/31/1991 to Present

Prior Complaint / Disciplinary History: None

Recommendation and Reasoning: Counsel and the Administrative Director recommend that the Respondent be offered a Consent Order imposing a civil penalty of one thousand five hundred dollars (\$1500.00). The Respondent would be required to complete forty-five (45) hours of corrective education: a fifteen (15) hour Market Analysis and Highest & Best Use course, a fifteen (15) hour USPAP course, and fifteen (15) hours of coursework in Residential Report Writing within 180 days of the execution of the consent order.

Vote: Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

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Being no further business, the meeting was adjourned at 9:08 a.m.

Chairman, Herbert E. Phillips

Nikole Avers, Administrative Director