



**REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Meeting Minutes for July 15th, 2019
Conference Room 1B
Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on July 15th, 2019, in the first floor conference room 1-B of the Davy Crockett Tower in Nashville, Tennessee. Randall Thomas called the meeting to order at 10:00 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Randall Thomas, Rex Garrison, Jim Atwood, Brett Mansfield, Michelle Alexander, Dr. Warren Mackara

BOARD MEMBERS ABSENT: Jason Bennett

STAFF MEMBERS PRESENT: Roxana Gumucio, Will Best, Denard Mickens, Anna Matlock, Amanda Dean

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Chairman Thomas called the meeting to order at 10:05 am, and Director Gumucio took roll call.

AGENDA

Dr. Mackara motioned to adopt the agenda as written. This was seconded by Ms. Alexander. The motion carried by unanimous voice vote.

MINUTES

Mr. Atwood made a motion to adopt the minutes from the April 15, 2019 meeting. This was seconded by Mr. Mansfield. The motion carried by unanimous voice vote.

EDUCATION REPORT

Director Gumucio provided the courses and individual course requests that have been submitted for approval into record per Dr. Mackara's recommendation. Dr. Mackara made a motion to accept the recommendations on each item and approve the courses listed, except course #2306 entitled, "Environmental Awareness". This was seconded by Mr. Atwood. The motion carried by unanimous voice vote. Dr. Mackara motioned to deny

course #2306 from being offered as continuing education (CE). This was seconded by Mr. Garrison. The motion carried by unanimous voice vote.

July 15, 2019 - Education Committee Report

Course Provider	Course Number	Course Name	Instructor(s)	Type	Hours	Recommendation
American Society of Farm Mgrs and Rural Appraisers	2270	Legal Descriptions Understanding and Applications	Howard Audsley, Boyd Harris	CE	4	APPROVE
American Society of Farm Mgrs and Rural Appraisers	2290	Introduction to Cannabis Operations and valuation	JoAnn Wall	CE	8	APPROVE
Appraisal Institute	2284	Annual Conference Day 2	John Gustavson, Lamar Ellis, John Rossi, et al	CE	4	APPROVE
American Society of Farm Mgrs and Rural Appraisers	2294	Practical Rural Appraisal. Work Problems Using the New Methodology	Brent Stanger	CE	8	APPROVE
IRWA	2296	501 Residential Relocation Assistance	Clyde B Johnson	CE	25	APPROVE
ASFMRA	1083	ADVANCED RURAL CASE STUDIES	Jeff Berg, Lee Smith, Justin Bierschwale, et al	CE	36	APPROVE
GA Appraiser School	2299	Residential Measuring Standards & GLA or Not	John Smithmeyer	CE	7	APPROVE
GA Appraiser School	2298	FHA Update - A Review of the Latest FHA Protocol	John Smithmeyer	CE	7	APPROVE
ASFMRA	2300	Farmland Drainage Tile.. Valuation and Usage	Allan Husby	CE	8	APPROVE
Appraisal Institute	2285	Annual Conference Day 1	John Vaughan, Craig Steinley, Peter Christensen, et al	CE	6	APPROVE
American Society of Appraisers	2303	ONLINE - Appraisal of Flex Industrial Facilities	Donald Sonneman	CE	7	APPROVE
IRWA	2305	Introduction to Property & Asset Management, 700	Mike Penick	CE	25	APPROVE
IRWA	2306	600 Environmental Awareness	Clyde Johnson	CE	8	DENY
Calypso CE	2309	Victorian Era Architecture for Real Estate Professionals	Francis Finigan	CE	3.5	APPROVE

Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Joel Fulmer	Arkansas Real Estate School	Short Sales and Foreclosures	3	CE	APPROVE
Joel Fulmer	Arkansas Real Estate School	ONLINE - Arkansas Agent Safety	1	CE	APPROVE
Joseph M Ramirez II	GA Appraiser School	FHA Update	7	CE	APPROVE

Donald Tindell	GA Appraiser School	Successful Tax Appeals	7	CE	APPROVE
Joseph Key	McKissock	Laws & Regulations for CA Appraisers	2	CE	APPROVE
Joel Fulmer	OnCourse Learning Real Estate	AREC 2018 Real Estate Forms and Contracts for Brokers	3	CE	APPROVE

Additional / Course Instructor Approvals

Licensee / Instructor (Qualifications)	Course Provider	Course Listings (all previously approved)	Recommendation
Kevin Hecht	Columbia Institute	2188, 2197, 2230, 2122	APPROVE
Kevan Trevis Smith	TREES	See list	APPROVE
Pam Teel	Columbia Institute	2188, 2197, 2230, 2122	APPROVE
Diana Jacob	Columbia Institute	2188, 2197, 2230, 2122	APPROVE

EXPERIENCE INTERVIEWS

Chairman Thomas conducted the experience interview of **Lisa Campbell** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Chairman Thomas conducted the experience interview of **Andrew Starr IV** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Chairman Thomas conducted the experience interview of **Charlotte Miller** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Jessica Buford** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Mark Palmer** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Matthew Roberts** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **William Riggins** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Garrison conducted the experience interview of **Kacy Parham** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Garrison conducted the experience interview of **James Adams** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Garrison conducted the experience interview of **Laryssa Wilson** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Mr. Garrison conducted the experience interview of **Garret Pillsbury** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Mansfield conducted the experience interview of **Tracey Autry** and recommended that her experience be accepted toward the Licensed Appraiser Upgrade.

Mr. Mansfield conducted the experience interview of **Stacy Hensley** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Mr. Mansfield conducted the experience interview of **William White** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Mansfield conducted the experience interview of **Maggie Vossler** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Mr. Mansfield conducted the experience interview of **Spencer Tenbarge** and recommended that his experience be accepted toward the Certified General Upgrade.

Ms. Alexander conducted the experience of **Angela Griffith** and recommended that her experience be accepted toward the Certified General Upgrade.

Mr. Garrison motioned to accept all of the recommendations. This was seconded by Ms. Alexander. The motion carried by unanimous voice vote.

APPEARING BEFORE THE BOARD

Sherif Ibrahim requested the opportunity to take the Licensed Appraiser exam one more time within the 2019 calendar year. Since English is Mr. Ibrahim's second language creating a hardship, Mr. Atwood made a motion to grant Mr. Ibrahim's request for the retest and extra time to take the test, to be determined by the testing vendor PSI. This motion was seconded by Mr. Garrison. The motion carried by unanimous voice vote.

LEGAL REPORT *(Presented by Anna Matlock)*

- 1. 2019008961
Licensing History: Certified General Real Estate Appraiser, 6/8/93 – 3/10/19
Disciplinary History: 2019 Consent Order**

Complainant is an appraisal management company and Respondent is a certified general real estate appraiser. On November 28, 2018, Respondent accepted an FHA assignment with an inspection date of December 3, 2018, signed by Respondent on December 7, 2018. A revision request was submitted and a final appraisal was submitted by Respondent on December 12, 2018. A complaint was filed stating that individual that inspected the subject property was not the person that signed the appraisal. Respondent stated they did not inspect the property, but claimed their signature was attached to the appraisal as a clerical error by the administrator. Complainant states Respondent was notified their actions were considered a USPAP violation and Respondent was given thirty (30) days to respond. On January 14, 2019, Respondent stated their actions were not a USPAP violation, but instead a clerical error.

Respondent answered the complaint stating they were out of the office when the order was submitted to his office. Respondent states their assistant did not follow company guidelines and did not inform them the appraisal was directly assigned to Respondent or that it was an FHA appraisal. Respondent states that upon reviewing the report, they did not realize this was an FHA report and the FHA number and signature were added to the report just prior to submission. Respondent states they did not know only their signature was placed on the report until they were notified. Respondent states that their assistant attached Respondent's signature only when they realized it was an FHA report. Respondent states the assistant has since left the company. Respondent states they requested several times to re-inspect the home, but their requests were denied. Respondent states they exercised due care and this was an unauthorized use of their signature. Respondent also states this is no more of a USPAP violation than a report with an incorrect address, incorrect site size or incorrect photos, that it was clerical error which could easily be corrected. Respondent also states a client must allow an appraiser to correct mistakes within a report and this is the first time in twenty-five (25) years of appraising this has happened to Respondent's company and will not happen again.

This matter was sent out for expert review. The expert states the issue in this case revolves around the issue of misleading conduct.

SR 1-1 through SR 1-6

These standards require certain actions and understanding required of the appraiser. In as much as the representative appraiser did not inspect the property nor prepare the report brings these standards into account as these actions/understands were not demonstrated by the Respondent.

SR 2-1(A)

This standard requires that the appraisal clearly and accurately set forth or be set forth in a manner that is not misleading. The submitted report is misleading in as much as the Respondent did not prepare the appraisal.

SR 2-3

Certification states property inspection which was not the case. This is again misleading.

The expert also states the Ethics Rule conduct section requires than appraiser must not use or communicate a report or assignment results known by the appraiser to be misleading or fraudulent.

The Respondent submitted a report as if they had inspected the property and prepared a report. Furthermore, an appraiser must not knowingly recruit an employee or other person to communicate a report or assignment results that are misleading or fraudulent. Consideration must be given as to the actions or non-actions of the appraisers.

Based on the information provided by Complainant, Respondent, and the expert reviewer Counsel recommends a Letter of Warning be issued to Respondent for the above-mentioned violations of USPAP.

Recommendation: Letter of Warning.

Decision: The Commission voted to send this complaint for investigation for three matters: 1) the assistant signing the paperwork; 2) the responsibility of the Respondent; and 3) the office policy on signing reports.

2. 2019013271

Licensing History: Certified Residential Real Estate Appraiser, 9/13/2006 – 9/30/2020

Disciplinary History: 2007 Letter of Warning

Complainant is a Tennessee home owner. Respondent is a certified residential real estate appraiser. Complainant provides a timeline stating that their home had toxic waste in the downstairs restroom and contacted a plumber. The issue persisted with water coming through the basement bedroom floor and toxic waste in the downstairs restroom. Complainant hired a plumber to clean the home and the plumber stated this was a pre-existing condition and that mold may be in the baseboards, drywall, and possibly floors. The home owner insurance does not cover the water damage and also contacted a contractor. On January 19, 2019 Complainant contacted Respondent to do another appraisal with the standing water in the basement. Complainant states Respondent suggested they contact the seller to see if they will fix the issue. Complainant additionally filed complaints against the home inspector and real estate agents.

Respondent answered the complaint stating Complainant contacted them a month after moving in about the flooding in their home. Respondent stated Complainant requested Respondent to change the report to reflect the damages and therefore the report needs to be adjusted. Respondent informed Complainant the date of the report is the effective date and that Complainant confirmed during a phone call the home inspection did not reveal damages and the contractor discovered the damage after opening a closed wall and looking at the drywall. Respondent informed Complainant they could not adjust the appraisal, but could assist in a new assignment; however, they would need to know the actual cause and the cost to cure the issue.

Counsel recommends this complaint to be dismissed as Respondent has not violated any of the statutes, rules, and made all of the proper disclosures to Complainant at the time of the appraisal.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

3. 2019014271

Licensing History: Certified Residential Real Estate Appraiser, 7/13/2005 – 1/31/2020

Disciplinary History: 2011 Consent Order with \$500 Civil Penalty and 15 hours Residential Report Writing CE, 2017 Consent Order with \$1,000 Civil Penalty

Complainant is an appraisal management company. Complainant submitted the complaint alleging potential USPAP non-compliance and as required by Tenn. Code Ann. § 62-39-416. Complainant alleges the report represents a final conclusion that is substantially higher than Sales 1, 2, and 3 which are closed sales. Additionally, a comparable would indicate that a substitution for the subject was available for substantially lower pricing. Furthermore, on sale 1, the basement adjustment to sale one for over \$110,000.00 and the GLA adjustment of over \$155,000.00 with the final adjustments of over 55% strongly indicate this particular property shares little similarity to the subject. Complainant states there is no support for these adjustments and adjustments are to be market based. Furthermore, the Site Value in the cost approach reported as \$50,000.00 and the prior subject sale on 5/26/2016 at \$358,900.00 and the current subject improvements on the side which are reported as a new construction, there is no confirmation by the appraiser in regard to the prior improvements. Complainant also states Respondent used retired net and gross adjustment guidelines that were retired in 2015.

Complainant states USPAP requires that prior sales are reported and analyzed in relation to the presented value, but this was not undertaken or reported in the Analysis of prior sale or transfer history section of the report and only in the neighborhood description was there any information on the area wildfires and that prior improvements were destroyed in the fire. Also, the comments under the legal description state that Indicated Taxes appear to have been for land only. However, the land was not vacant. Also, value is reported as \$650,000.00 with sales reported \$570,000.00, \$595,000.00, \$550,000.00, \$650,000.00, and a list available at \$500,000.00. 3 closed sales fail to support prior to extreme upward adjustments. Post the adjustments sales 1, 3, and listing 5 continue to fail to support. Complainant concludes that it has not paid the appraiser for the report and that payment will not be forthcoming due to the deficiencies in the presented report.

Respondent answered the complaint in detail. Respondent stated that in regard to sales 1, 2, 3 that it is understood by Respondent the final opinion of value is higher than the unadjusted sale prices of these sales, however, the final opinion of value is bracketed by the adjusted and unadjusted sales prices of the included comparable sales. Respondent states that a difference in adjusting listing price and final opinion of value of 15%, or less is considered minimal. Respondent relies on opinions of local real estate agents to support his report. Respondent also states there was a lack of available recently close comparable sales offering a similar amount of above grade and a similar amount of finished below grade area. Respondent also states that the subject property prior transfer was indicated and discussed and fires that destroyed subject's prior improvements were discussed. Respondent also states taxes indicated in the appraisal report were for the subject parcel as vacant, but was unable to obtain taxes amounts as improved due to the age of improvements. Respondent also addresses the retired gross adjustment guidelines and states Respondent prefers low gross and

net adjustments regardless of retired guidelines. Respondent also states due to lack of better comparable sales, a wider range of home styles, sizes, were chosen and this was discussed within the appraisal report.

This matter was sent for expert review. The expert found that the report is lacking in completeness. Furthermore, the reviewer states it is lacking of apparent relevant date, and appropriate appraisal methods and techniques were not followed, some sections do not appear appropriate and could be confusing or misleading. The below individual violations were provided:

SR1-1(b) & (c), SR 1-2(e)(i), SR 2-1(a) & (b), SR 2-2(a)(viii)

The expert found the subject section to be mostly complete and adequate. However, the “Neighborhood” section contained very little information about the neighborhood and area, some information could even be considered misleading. This section was considered very inadequate, confusing, and lacking of meaningful information.

SR 1-3(b), SR 2-1(a) & (b), SR 2-2(a)(x)

The highest and best use subsection contained only a brief statement was made, but did not include the present improvements contributing to value. The summarizing does not meet the USPAP requirements and does not support the rationale for the opinion.

SR 1-1(b) & (c), SR 1-2(e)(i), SR 2-1(a) & (b), SR 2-2(a)(iii)

The improvements section of the report was not complete and is confusing in some areas due to lack of information. The report lacks information as to what happened to the old structure and about the new structure.

SR1-1 (a), (b), & (c), SR 1-6(a), SR 2-2(a)(viii)

The sales price data on Comparable 3 does not agree with the MLS data in the workfile and CRS public records. Per the MLS the home sold of \$500,000 not \$550,000 and closed on August 2018, not December 2018. Sale #1 is located 6.56 miles from the subject and does not have a basement, typically most appraisers consider these two different markets and would not use the two cities for comparable sales. Sale #1 had some very large individual and gross adjustments which typically indicate the sale may not be an acceptable comparable. The Sales Comparison Approach was not reconciled within itself as required. An explanation or analysis of why this value is appropriate should have been included in the report.

SR 1-1 (a) & (b), SR 1-4(b), SR 2-2(a)(viii)

The Cost Approach was considered in the appraisal report, but no cost sheets were included in the submitted material. An opinion of the site value was included, but no sales were cited in the report nor were there sales listed or noted in the workfile and there was not a reconciliation of any land sales.

SR1-1(a) & (b), SR 2-2(a)(viii)

The Income Approach was marked “NA” on page 2 and then included on page 3 contrary to the statement in the “Additional Comments (AC) Reconciliation section, but no reasoning for it being included was given. Sale 3 had rental data in its MLS brief indicating

it had been rented and rentals are typical for the market. Therefore, the Income Approach should have been considered and a more detail discussion about why it was not included should have been included. The Income Approach should have been addressed in the body of the report to avoid confusion to the reader.

Ethics Rule, SR 2-2(a)(xii), SR 2-3

Inadequate USPAP required signed certification information. The report does not have all of the required certification items in the correct form or place, the required “I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of the work under review within the three-year period immediately preceding acceptance of the assignment” was not included in a signed certification. Also, even though the subject property had drastic physical changes the USPAP ETHICS RULE requires disclosure of the prior services in a signed certification.

Recommendation: Discuss.

Decision: The Commission voted to issue a Consent Order requiring Respondent to either meet with a Commissioner regarding the report or to pay a one thousand dollar (\$1,000.00) civil penalty and attend a thirty (30) hour sales comparison course.

4. 2019009281

Licensing History: Certified Residential Real Estate Appraiser, 2/21/2006 – 9/30/2019

Disciplinary History: None

Complainant is a Tennessee homeowner. Respondent is a certified residential real estate appraiser. Complainant alleges Respondent was contacted by a loan company to do an appraisal of their property. Complainant alleges Respondent’s appraisal does not use comps with a similar size and layout to their property, nor does it appear to consider the tax assessor’s valuation and size. Specifically, the complainant states the square footage listed. Complainant alleges that of the properties used as a comp all three have significantly higher appraiser value than their tax assessor’s appraised value. Complainant states a \$5,000 less and 1,200 square feet discrepancy.

Respondent answered and provided their work file. Respondent states they measured the dwelling with a laser to scale. Respondent also states they follow the ANSI protocol and the guidelines by Fannie Mae. Respondent also states they can in no way vouch for the accuracy of the tax assessor’s gross living area figures, but have reviewed this for the purpose of their response. Respondent states they do not know how the assessor derives their gross living area figures, while he physically measures the dwelling with a laser to scale to accurately determine the gross living area and finished basement area. After a review, Respondent states their measurements are very close to the previous MLS listings. Respondent also states the tax assessor value has no bearing upon their analysis during the development of the appraisal.

This matter was sent for expert review. The expert reviewer found that Respondent complied with the statutes, rules, and USPAP. Furthermore, the expert agrees with Respondent's assessment that Complainant does not know the proposal followed for determining gross living area. Therefore, because Counsel has not found any additional violations of the rules and statutes, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

5. 2019017091

Licensing History: Certified General Real Estate Appraiser, 10/31/1991 – 10/31/2019

Disciplinary History: None

Complainants are prospective Tennessee homebuyers. Respondent is a certified general real estate appraiser. Complainants state they were in the process of purchasing a home and in the process, the loan company selected Respondent to do an appraisal of the prospective home. Complainants state they were shocked to see that Respondent appraised the home, but also gave a list of necessary repairs needed before Respondent could sign off on the report. Complainants acknowledge they were aware they were purchasing an older home and accepted the home "as is." Complainants provided Counsel a list of suggested repairs by Respondent. Complainants state because they accepted the home at an "as is price" from the seller they were required to make all the repairs out of their own pocket for the appraiser, not an inspector, to sign off on the report. Complainants are upset they had to pay unnecessary fees for a foundation inspection, a second inspection by Respondent, and repair fees for a home they purchased "as is."

Respondent answered the complaint stating the repairs were based upon mainly safety issues. Respondent considered all items to be safety, soundness, or habitability concerns that required fixing. Respondent also states that lender has the final say and the Complainants and lender could have talked and decided to not have any or all items attend do.

This matter was sent for expert review. The expert reviewer found that Respondent complied with the statutes, rules, and USPAP. The expert also states that Respondent's listed repairs were of safety concern and therefore reasonable that these could have been reported and a condition adjustment made to reflect an "as is" value instead of an "as proposed value." Therefore, because Counsel has not found any additional violations of the rules and statutes, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

6. 2019035051

Licensing History: Licensed Real Estate Appraiser, 3/30/1999 – 1/31/2020

Disciplinary History: None

Complainants are Tennessee homebuyers and Respondent is a licensed real estate appraiser. Complainants state they hired Respondent on March 8, 2019 to appraise their home, 48.22 acres, and a vacant land. Complainants allege Respondent stated they could have the appraisal done by March 13, 2019. Complainants paid Respondent an initial deposit. Complainants state they did not receive a report and Respondent ignored and did not reply to Complainants' messages. Respondent eventually replied and stated the appraisal would be done by March 29, 2019 and Respondent would email the final invoice. Complainants again did not hear from Respondent and requested Respondent only provide a report for their home and 48.22 acres, not the vacant land.

On April 15, 2019, Complainants allege Respondent apologized and sent a link for an appraisal of the vacant land Complainants cancelled in writing two (2) weeks prior. Complainants then requested Respondent refund their initial deposit. Complainants allege Respondent emailed them stating Respondent believed Complainants were unhappy with their appraised value for the vacant land and were therefore requesting a refund. In an email provided by Complainants, Respondent also denied receiving a voicemail from Complainants. Complainants provided Counsel attachments of their email correspondence with Respondent. After a follow-up conversation with Counsel, Complainants informed Counsel they have not received a refund of their money, neither of the (2) appraisals for the home or 48.22 acres, or any further communication from Respondent since April 23, 2019.

Despite two (2) separate notifications of the complaint, Respondent did not provide an answer to the response or their work file. Based on the information and documents provided by Complainant, Counsel recommends a One Thousand Dollar (\$1,000.00) civil penalty be assessed to Respondent.

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty.

Decision: The Commission voted to issue a Two (2) Thousand Dollar (\$2,000.00) civil penalty.

7. 2019027421

Licensing History: Appraisal Management Company, 10/20/2011 – 10/19/2019

Disciplinary History: 2012 Consent Order for failure to submit biannual certification

This complaint is related to complaints 2018074401, 2018080351, 2018088271, and 2019004991 which were all presented at the April 2019 meeting. Complainant is an appraiser. Respondent is an appraisal management company. Complainant states they completed an appraisal report for Respondent, but was not paid. The invoices begin in late 2017 and end November 19, 2018. Complainant states they have completed seventy-two (73) appraisals for Respondent since 2012.

Complainant has attempted to contact Respondent, but all messages were unanswered until their phone service was disconnected. Complainant's invoices total five thousand thirty dollars (\$5,030.00)

Respondent did not provide an answer. Counsel recommends Respondent's license be voluntarily surrendered, which will have the same effect as revocation for violation of Tenn. Code Ann. § 62-39-421 and reported to the appraisal subcommittee pursuant to Tenn. Code Ann. § 62-39-427.

Recommendation: Voluntary surrender, same effect as revocation, for violation of Tenn. Code Ann. § 62-39-421 and reported to the appraisal subcommittee pursuant to Tenn. Code Ann. § 62-39-427.

Decision: The Commission voted to accept Counsel's recommendation.

Re-Present

8. 2018074401

Licensing History: Appraisal Management Company, 10/20/2011 – 10/19/2019

Disciplinary History: 2012 Consent Order for failure to submit biannual certification

This complaint is lodged by another TN Real Estate Appraiser. According to the Complainant, the Respondent contacted the Complainant's firm requesting the Complainant complete an appraisal at a TN residence. The Respondent accepted the Complainant's terms and the property was inspected on April 9, 2018. The Complainant alleges they have attempted to obtain payment each month, but have received none. This complaint is filed due to non-payment (\$500.00).

The Respondent says they admit payment was not made within 60 days of the completion of the appraisal. The Respondent made payment on October 22, 2018. The complaint was lodged with the Board on October 19, 2018.

As of December 2018, the Respondent claims to have suffered severe financial difficulties and may be preparing to file for bankruptcy protection. As of April 2019, there is no evidence of a formal filing.

Recommendation: Issue a letter of warning for violation of Tenn. Code Ann. § 62-39-421 (failure to make timely payment) and this matter should be reported to the appraisal subcommittee pursuant to Tenn. Code Ann. § 62-39-427.

Decision: The Commission voted to authorize a Consent Order for Respondent to pay back Complainant within thirty (30) days or have their license revoked.

New Information: Respondent sent Counsel a letter received on May 29, 2019 stating that Respondent is closed and has not accepted orders since November 2018. Furthermore, Respondent is in the process of dissolving itself and has retained counsel specializing in

insolvency matters. Respondent requested to discuss a settlement to surrender its license with the Commission. Counsel reached out to Respondent's attorney and informed Respondent that the Commission would require a written document stating Respondent's license would voluntarily surrender its license that would have the same effect as revocation. Respondent provided this document to Counsel.

New Recommendation: Consent order requiring Respondent to voluntarily surrender its license which will have the same revocation for violation Tenn. Code Ann. § 62-39-421.

New Decision: The Commission voted to accept Counsel's recommendation.

9. 2018080351

Licensing History: Appraisal Management Company, 10/20/2011 – 10/19/2019

Disciplinary History: 2012 Consent Order for failure to submit biannual certification

This complaint is made by an out-of-state appraisal company that holds a TN Real Estate Appraiser license. The Complainant alleges they completed an appraisal report for property in TN, but was never paid. This complaint is filed due to non-payment (\$375.00).

As of December 2018, the Respondent claims to have suffered severe financial difficulties and may be preparing to file for bankruptcy protection. As of April 2019, there is no evidence of a formal filing. From the investigation conducted by the agency, there is the possibility that other similar Complainants may exist.

Recommendation: Respondent's AMC license should be suspended for violation of Tenn. Code Ann. § 62-39-421 (non-payment) and this matter should be reported to the appraisal subcommittee pursuant to Tenn. Code Ann. § 62-39-427.

Decision: The Commission voted to authorize a Consent Order for Respondent to pay back Complainant within thirty days or have their license revoked.

New Information: Respondent sent Counsel a letter received on May 29, 2019 stating that Respondent is closed and has not accepted orders since November 2018. Furthermore, Respondent is in the process of dissolving itself and has retained counsel specializing in insolvency matters. Respondent requested to discuss a settlement to surrender its license with the Commission. Counsel reached out to Respondent's attorney and informed Respondent that the Commission would require a written document stating Respondent's license would voluntarily surrender its license that would have the same effect as revocation. Respondent provided this document to Counsel.

New Recommendation: Consent order requiring Respondent to voluntarily surrender its license which will have the same revocation for violation Tenn. Code Ann. § 62-39-421.

New Decision: The Commission voted to accept Counsel's recommendation.

10. 2018088271

Licensing History: Appraisal Management Company, 10/20/2011 – 10/19/2019

Disciplinary History: 2012 Consent Order for failure to submit biannual certification

This complaint is lodged by another TN Real Estate Appraiser. The Complainant alleges they have completed two appraisals for the Respondent (FHA purchase and Refi) and have not received payment for either. The total amount owed the Complainant appears to be approximately \$1,000.00.

As of December 2018, the Respondent claims to have suffered severe financial difficulties and may be preparing to file for bankruptcy protection. As of April 2019, there is no evidence of a formal filing. From the investigation conducted by the agency, there is the possibility that other similar Complainants may exist.

Recommendation: Respondent's AMC license should be suspended for two (2) violations of Tenn. Code Ann. § 62-39-421 (non-payment) and this matter should be reported to the appraisal subcommittee pursuant to Tenn. Code Ann. § 62-39-427.

Decision: The Commission voted to authorize a Consent Order for Respondent to pay back Complainant within thirty days or have their license revoked.

New Information: Respondent sent Counsel a letter received on May 29, 2019 stating that Respondent is closed and has not accepted orders since November 2018. Furthermore, Respondent is in the process of dissolving itself and has retained counsel specializing in insolvency matters. Respondent requested to discuss a settlement to surrender its license with the Commission. Counsel reached out to Respondent's attorney and informed Respondent that the Commission would require a written document stating Respondent's license would voluntarily surrender its license that would have the same effect as revocation. Respondent provided this document to Counsel.

New Recommendation: Consent order requiring Respondent to voluntarily surrender its license which will have the same revocation for violation Tenn. Code Ann. § 62-39-421.

New Decision: The Commission voted to accept Counsel's recommendation.

11. 2019004991

Licensing History: Appraisal Management Company, 10/20/2011 – 10/19/2019

Disciplinary History: 2012 Consent Order for failure to submit biannual certification

This complaint is lodged by another TN Real Estate Appraiser. The Complainant alleges the Respondent has failed to pay a \$150.00 invoice for appraisal services performed. The Respondent has, apparently, not responded to numerous calls and emails.

As of December 2018, the Respondent claims to have suffered severe financial difficulties and may be preparing to file for bankruptcy protection. As of April 2019, there is no evidence of a formal filing. From the investigation conducted by the agency, there is the possibility that other similar Complainants may exist.

Recommendation: Respondent's AMC license should be suspended for violations of Tenn. Code Ann. § 62-39-421 (non-payment) and this matter should be reported to the appraisal subcommittee pursuant to Tenn. Code Ann. § 62-39-427.

Decision: The Commission voted to authorize a Consent Order for Respondent to pay back Complainant within thirty days or have their license revoked.

New Information: Respondent sent Counsel a letter received on May 29, 2019 stating that Respondent is closed and has not accepted orders since November 2018. Furthermore, Respondent is in the process of dissolving itself and has retained counsel specializing in insolvency matters. Respondent requested to discuss a settlement to surrender its license with the Commission. Counsel reached out to Respondent's attorney and informed Respondent that the Commission would require a written document stating Respondent's license would voluntarily surrender its license that would have the same effect as revocation. Respondent provided this document to Counsel.

New Recommendation: Consent order requiring Respondent to voluntarily surrender its license which will have the same revocation for violation Tenn. Code Ann. § 62-39-421.

New Decision: The Commission voted to accept Counsel's recommendation.

12. 2017081031

Licensing History: Certified General Real Estate Appraiser, 10/4/1991 – 10/31/2019

Disciplinary History: 2007 Letter of Caution and 2013 Letter of Caution

Complaint filed on December 27, 2017 by licensee Complainant. Complaint alleges errors in appraisal resulted in gross overvaluation of two parcels of land "that comprise approximately 83.649, of which approximately six acres along the highway frontage is zoned for commercial use with the remaining 77.65 acres zoned for agricultural use." Complainant alleges Respondent allocated +/- 25 acres to commercial use, inappropriate comparable land sales were utilized, and that Respondent "disregarded recent and relevant market information proximate to the subject property that was available which reflected substantially lower indicators of value." Respondent appraised property for \$5.3 million. Respondent submitted a written response refuting the allegations of Complainant and avers that zoning regulations permitted the larger commercial acreage.

Respondent supplemented the Response by submitting a letter stating in part the following: Complainant "is a disgruntled employee whom I had to fire because he started his own company while working for me and was using all my resources, including database and online services.

Furthermore, it should be noted that the report in question was reviewed and approved [by the bank].” Respondent’s letter goes on to state “Although I understand that anyone may file a complaint to the Commission, I feel the background of this complaint should be noted.”

Expert review of the work files was completed on January 11, 2019 and it was concluded that Respondent’s report violated:

SR1-3a

The subject property in the appraisal review is split zoned. In addition, there appears to be a city and county zoning jurisdictions. Based on the zoning map included in the report it appears a small portion (less than 10 acres) is zoned C-3 with the remainder zoned A-1. There is little information in the report identifying the two zoning classifications, permitted uses, bulk regulations, and legal conformity of the improvements. The appraisal estimates a commercial component within the valuation section of 25 acres, but there is no discussion or reference as to how this relates to the identified C-3 or A-1 zoning classifications in the Zoning Section. The appraisal discusses a B-3 zoning classification in summary; however, no other information on this B-3 district is found. The respondent confirms in the rebuttal to the claim that the zoning map within the original report is inaccurate. The information in the report is misleading and not consistent with the valuation. It is my opinion the appraisal committed substantial error of omission that significantly affects the appraisal.

SR1-1b, SR1-2e, and SR1-3a

The appraisal fails to provide a meaningful Highest & Best use analysis primarily with legal permissibility. The report states, the zoning districts provide a wide range of “commercial and retail uses.” The permitted uses are imperative to the Highest & Best Use summary, and conclusion of an ideal improvement of which was not provided. In addition, it is unknown if the comparable set have a similar H&BU conclusion as no mention of legally permitted uses was identified within the report.

SR2-2x

The appraisal concludes the Highest & Best Use of the site as improved is for redevelopment and employs a Sales Comparison Approach within the valuation, but fails to discuss or account for the current improvements or demolition thereof. It is concluded the report violated SR2-1(a). The appraisal includes multiple sales from the area and surrounding areas. These sales include both commercial and residential sales. There is little information within the valuation section aside from the actual sales, a summary table, a location map, and conclusion. It is unknown how the appraisal arrives at the conclusion or the methods utilized to arrive at these conclusions. There is no adjustment grid of explanation of adjustments contained in a workfile. The report does not contain sufficient information to enable the intended user of the appraisal to understand the report properly.

SR2-1b

Within the report there is little support for the 25-acre conclusion of commercial land. This is inconsistent with the Zoning Section, Site Section, or Analysis. It is unknown how the appraisal arrives at this conclusion with no assumptions, hypothetical conditions, or zoning changes mentioned. The C-1 component mentioned in the zoning section appears to be less than 10 acres. There is no support for these conclusions or rationale. The report does not contain sufficient information to enable the intended user of the appraisal to understand the report properly.

The sales comparison approach does not summarize, support, or include an adjustment grid, summary of adjustments, or reference to adjustments retained in work file. The report does not contain sufficient information to enable the intended users of the appraisal to understand the report properly.

The H&BU section states the maximally productive use as vacant is for commercial development along the frontage and residential development along the rear of the site. In the valuation section, the report contains a conclusion for each component of the property but does not discuss value discounts of lack thereof when split zoned properties are sold to a single buyer with separate highest and best use conclusions. The appraisal does not correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.

SR1-1a and SR2-1a

A brief reconciliation was included; however, the information was not specific to the report, techniques utilized in the report, or relevant information within the report. It appears this was primarily canned comments not specific to the appraisal methods evoked. The report does not reconcile the quality and quantity of data available and analyzed within the approach utilized.

Recommendation: Consent Order for thirty (30) hours of coursework, comprised of fifteen (15) hours of Highest and Best Use courses and fifteen (15) hours of Report Writing. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal.

Decision: The Commission voted to authorize a Consent Order for sixty (60) hours of coursework, comprised of thirty (30) hours of General Highest and Best Use courses and thirty (30) hours of Report Writing. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal.

New Information: Following dissemination of the consent order, Respondent hired an attorney. Counsel has communicated extensively with Respondent's attorney in hopes of a settlement agreement. Respondent's attorney has hired an appraiser to review Respondent's report. Respondent's attorney has submitted a statement and an affidavit of

the appraiser reviewer for the Commission's review. Respondent's attorney is submitting a counter-offer of a Letter of Instruction requiring Respondent to take the sixty (60) hours of coursework, comprised of thirty (30) hours of General Highest and Best Use courses and thirty (30) hours of Report Writing. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal.

New Recommendation: Discuss.

New Decision: The Commission voted to reinstate their original recommendation.

Proposed Rule: ASC request- Instructor Certification Course

Per Appraisal Subcommittee (ASC) request, Rule 1255-05-.01(6) was amended to grant credit for the seven (7) hour USPAP update course to those instructors who teach the update course, but the instructor recertification course shall not fulfill the seven (7) hour USPAP update course CE requirement per renewal period.

Mr. Atwood motioned to adopt the proposed rule amendment as written. This was seconded by Dr. Mackara. The motion carried by unanimous roll call vote.

Ms. Matlock informed the Commission that there is a rulemaking hearing scheduled at their next meeting on October 21, 2019 to put the finishing touches on the continuing education (CE) rules package that was first introduced on October 16, 2018.

DIRECTOR'S REPORT

Budget

Director Gumucio reviewed the overall expenditures throughout FY19, noting that there has been a significant reduction in what will be added to the reserves this year due to the reduction in fees. The reduction in fees is serving its purpose to stall the reserve building that a regular surplus was creating per the recommendation from the Legislature at the most recent Sunset Hearing.

NEW BUSINESS

Update on Joint Effort with Financial Institutions

Mr. Garrison provided the update on the initiative. The next meeting is scheduled on October 15, 2019. John Brennan from the Appraisal Foundation and TN Dept. of Financial Institutions Commissioner Greg Gonzalez will be addressing a group of lending institutions and appraisers to discuss ongoing cooperation between the two industries.

Licensure requirements in Tennessee

Due to a significant increase in experience interviews, Director Gumucio clarified that it remains the Commission's prerogative as to the process for conducting those if they were to continue doing experience reviews. She reiterated that a telephonic interview was permissible if they chose to go that route. Director Gumucio further iterated that once the applicant receives approval from the Commission member conducting the experience interview, passes the test, and meets all other licensing requirements, that applicant is licensed and does not wait on the next Commission meeting for licensure.

Bifurcated Appraisals

In instances where appraisals rely on 3rd parties to collect information or inspect the property, Mr. Garrison raised the issue that the licensed Appraiser's responsibilities may need to be clarified. Ms. Matlock provided a disclaimer that nothing discussed at the Commission meeting is to be construed as legal advice, but the Commission was welcome to submit Frequently Asked Question (FAQ) responses on the topic for legal review and website posting upon approval.

Mr. Garrison posed the question on whether an appraisal review or evaluation requires a license. Ms. Matlock stated that each incident must be considered on its own merits against the definitions and guidelines contained in the statute and rules. This consideration and review usually happens when the Commission receives a complaint.

ADJOURNMENT

Mr. Garrison made a motion to adjourn the meeting. Ms. Alexander seconded this motion. The motion carried by unanimous voice vote and was adjourned at 12:35 p.m.