

2. That the proceedings were conducted in accordance with the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*, and the Oklahoma Administrative Procedures Act, 75 O.S., § 301-323.

3. That Respondent, WILLIAM S. MCGARRY, is a certified residential appraiser in the State of Oklahoma, holding credential number 10364CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 6, 1992.

FINDINGS OF FACT

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

1. That Respondent, WILLIAM S. MCGARRY, is a certified residential appraiser in the State of Oklahoma, holding credential number 10364CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 6, 1992.

2. In June of 2009, First Mortgage Company (the "client") hired Respondent to complete an appraisal on the subject property (the "appraisal"), located at 3134 Fox Hill Terrace, Edmond, Oklahoma (the "subject property").

3. The appraisal's date of appraised value was reported as June 12, 2009. Respondent reported a final estimate of value as Five Hundred Fifteen Thousand Dollars and 00/100 (\$515,000.00). The report was submitted to the client.

4. Errors were committed in the report, which affected the value of the appraisal. These errors include but are not limited to the following contained in paragraphs 5-9.

5. Respondent utilized comparables outside of the subject's addition and ignored sales available within the subject addition which were similar in size and quality. Respondent did not explain in his report why he ignored these available comparables.

6. The square footage of comparable number one (1), as reported by Respondent, is in conflict with the square footage listed in some of Respondent's data sources. Respondent did

not adequately explain his choice of his use of one data source over another as to square footage in his comparable #1.

7. Respondent made other errors in his sales comparison approach which were misleading. These errors include Respondent not reporting or adjusting for comparable number two's (2) in-ground pool.

8. Respondent's comparable number three (3) is not truly comparable because it is well outside the subject neighborhood, with two significant man-made barriers (Interstate Highway 35 and the Turner Turnpike) between the subject and the comparable and is situated in a neighborhood near a country club and golf course and has a significantly larger site size.

9. Due to the comparables chosen and the failure to make proper adjustments, the value as determined by Respondent was not adequately supported.

CONCLUSIONS OF LAW

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

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

- A) The Conduct Section of the Ethics Rule of the Uniform Standards of Professional Appraisal Practice;
- B) The Scope of Work Rule of the Uniform Standards of Professional Appraisal Practice;
- C) Standard 1, Standards Rules 1-1, 1-4, 1-6, Standard 2, and Standards Rule 2-1 of the Uniform Standards of Professional Appraisal Practice. These include the sub sections of the referenced rules.

2. That Respondent has violated 59 O.S. § 858-723(C)(7): "Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal."

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

4. That Respondent has violated 59 O.S. § 858-723(C)(13), in that Respondent violated 59 O.S. § 858-732(A)(1): "An appraiser must perform ethically and competently and not engage in conduct that is unlawful, unethical or improper. An appraiser who could reasonably be perceived to act as a disinterested third party in rendering an unbiased real property valuation must perform assignments with impartiality, objectivity and independence and without accommodation of personal interests."

RECOMMENDED DISCIPLINE

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

1. That Respondent shall successfully complete the following corrective education:

A) Respondent successfully completes corrective education as follows:

- **Course # 614 Residential Sales Comparison and Case Studies.**

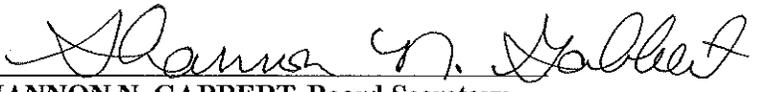
Said course must be completed with copies of the certificates of course completion transmitted to the administrative office of the Board within **SIX (6) MONTHS** from the date of any Board order accepting this recommendation. The course must be a live course, attended in-person by Respondent (not distance and/or correspondence courses). Respondent shall receive continuing education credit for this course with said hours to apply towards the forty-two (42) hours of continuing education he is required to take every three years.

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

APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED THIS 1st day of April, 2011.




SHANNON N. GABBERT, Board Secretary


BRYAN NEAL, Assistant Attorney General
Counsel to the Board

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that a true and correct copy of the above and foregoing Board's Decision as to Disciplinary Hearing Panel Recommendation was mailed on this 6 day of April, 2011 by certified mail, return receipt requested as follows:

PHILLIPS MURRAH PC
Raymond E. Zschiesche
Corporate Tower, 13th Floor
101 N. Robinson
Oklahoma City, Oklahoma 73102

7010 3090 0000 3334 8674

and by First Class Mail to:

OFFICE OF THE ATTORNEY GENERAL
Attn: Bryan Neal
313 N.E. 21st Street
Oklahoma City, OK 73105

DERRYBERRY & NAIFEH, LLP
Attn: Stephen McCaleb
4800 North Lincoln Blvd.
Oklahoma City, Oklahoma 73105

John M. Travers, Hearing Panel Officer
9028 S. Norwood Avenue
Tulsa, Oklahoma 74137

Stephen C. Walton, Hearing Panel Officer
8282 S. Memorial, Suite 201
Tulsa, Oklahoma 74133

Robert J. Dunkle, Hearing Panel Officer
1600 E. 126th Street N.
Skiatook, Oklahoma 74070

William S. McGarry
700 S. Kelly
Edmond, Oklahoma 73003


CHRISTINE MCENTIRE