

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND )  
PROFESSIONAL REGULATION, REAL )  
ESTATE APPRAISAL BOARD, )  
 )  
Petitioner, )  
 )  
vs. ) CASE NO. 96-2197  
 )  
DONALD R. SNAPP, JR., )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Robert E. Meale, Hearing Officer of the Division of Administrative Hearings, conducted the final hearing in Sebring, Florida, on August 21, 1996.

APPEARANCES

For Petitioner: Steven W. Johnson  
Senior Attorney  
Division of Real Estate  
Post Office Box 1900  
Orlando, Florida 32802-1900

For Respondent: Clifford R. Rhoades, Esquire  
227 North Ridgewood Drive  
Sebring, Florida 33870

STATEMENT OF THE ISSUE

The issue is what penalty should be imposed for a violation by Respondent of the Uniform Standards of Professional Appraising Practice.

PRELIMINARY STATEMENT

By Administrative Complaint dated February 8, 1996, Petitioner alleged that, in the preparation of a real estate appraisal, Respondent failed to exercise reasonable diligence in preparing an appraisal report, in violation of Section 475.624(15), Florida Statutes, and violated Standards 2, 4, and 5 of the Uniform Standards of Professional Appraisal Practice, in violation of Section 475.624(14), Florida Statutes.

Respondent timely demanded a formal hearing.

At the hearing, Petitioner and Respondent stipulated to the following. Petitioner dismissed Count II, which alleged that Respondent failed to exercise reasonable diligence in the preparation of an appraisal report. As to Count I, Petitioner dropped the allegations of a violation of Standards 4 and 5.

For his part, Respondent agreed that he violated Standard 2-2.

The parties stipulated to other facts, which are set forth in the findings of fact. The parties also introduced into evidence two joint exhibits. Neither party called any witnesses.

The parties did not order a transcript. Neither party filed a proposed recommended order. At the hearing, Petitioner requested a penalty of a minimum fine and appraiser education. Respondent requested that no penalty be imposed.

#### FINDINGS OF FACT

1. At all material times, Respondent has been a certified general real estate appraiser, holding license number 000894. He has worked as an appraiser for 14 years and has held his real estate license for 15 years. He has never previously been disciplined.

2. By letter dated March 16, 1995, Respondent sent what he entitled as a "letter of opinion of value for property located at [address omitted]." The letter of opinion states that the document "is not a Real Estate Appraisal Report, rather [it is] an opinion of value." The letter estimates the value of appraised property as \$65,000-\$70,000.

3. The client for whom the letter of opinion was prepared was satisfied with the process by which Petitioner prepared the letter of opinion and the letter of opinion itself. The letter of opinion caused no one any damage or inconvenience.

4. Standard 2-2 of the Uniform Standards of Professional Appraisal Practice (USPAP) states: "Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report or Restricted Appraisal Report."

5. SMT-7, which is commentary that accompanies certain standards of the USPAP, provides:

Various nomenclature has been developed by clients and client groups for certain appraisal assignments. The development of this Statement on Appraisal Standards is a response to inquiries about several types of appraisal assignments, and it is appropriate to clarify the meaning of these terms for future reference.

The term Letter Opinion of Value has been used to describe a one-page letter sent to a client that stated a value estimate and referenced the file information and experience of the appraiser as the basis for the estimate. This type of service does not comply with USPAP, and should be eliminated from appraisal practice. USPAP recognizes that the results of any appraisal assignment may be presented in a letter format provided that the content items in one of the three report options under

Standards Rule 2-2 are addressed. The Restricted Report is the minimum report format and replaces the concept of the Letter Opinion of Value.

6. Respondent has stipulated to a violation of USPAP Standard 2-2 in the preparation of the March 15, 1995, letter.

#### CONCLUSIONS OF LAW

7. The Division of Administrative Hearings has jurisdiction over the subject matter. Section 120.57(1), Florida Statutes. (All references to Sections are to Florida Statutes.)

8. Section 475.624(14) provides that the Florida Real Estate Appraisal Board may impose discipline for a violation of any USPAP provision.

9. Rule 61J1-8.002(3)(o), Florida Administrative Code, provides that the normal penalty range for a violation of the USPAP is up to five years' suspension or revocation.

10. Respondent has stipulated to a violation of the USPAP, so issues of the effective date of the changes purportedly prohibiting the use of letters of opinion and the effect of the use of "should" in SMT-7 are not directly relevant.

11. The stipulated infraction caused no public injury and results from recent changes in the USPAP. Respondent has never been disciplined in his long career in real estate.

12. Rule 61J1-8.001 provides for the issuance of citations in minor matters, but limits the violations for which citations may be issued to those violations cited in the rule. The subject violation is not cited.

13. The least serious form of discipline cited in Rule 61J1-8.002 is a reprimand. However, if the Board and Respondent could agree, a better resolution would be to withhold issuing an order for a reasonable period of time, during which Respondent would successfully complete a short course in the USPAP. If he successfully completed the course within the agreed-upon period of time, the Board would dismiss the administrative complaint. If not, the Board would issue a final order, pursuant to this recommended order, issuing a reprimand.

#### RECOMMENDATION

It is

RECOMMENDED that, in the absence of an agreement of the type described in the preceding paragraph, the Board of Real Estate Appraisers enter a final order reprimanding Respondent.

ENTERED on September 30, 1996, in Tallahassee, Florida.

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ROBERT E. MEALE, Hearing Officer  
Division of Administrative Hearings  
The DeSoto Building  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this September 30, 1996.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions to the Recommended Order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should consult with the agency that will issue the Final Order in this case concerning their rules on the deadline for filing exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.