

**BEFORE THE MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

**MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

COMPLAINANT

VS.

CASE NO. 06-1404

**RICHARD LEQUESNE MURPHY, APPRAISER
(LICENSE NO. GA-666), AND VICTORIA BEVERIDGE,
APPRAISER (LICENSE NO. RA-971)**

RESPONDENTS

CONSENT ORDER

RE: RICHARD LEQUESNE MURPHY, APPRAISER, LICENSE NO: GA-666

THIS CAUSE came before the Mississippi Real Estate Appraiser Licensing and Certification Board (sometimes hereinafter "Board"), pursuant to authority of §§73-34-1, *et seq.*, Miss. Code Ann. (1972), as amended, following the issuance of a formal Notice of Hearing and Complaint ("Complaint") served on or about July 22, 2015 upon Richard Lequesne Murphy, Appraiser, (sometimes hereinafter "Respondent" or "Murphy"), License No.: GA-666 and Victoria Beveridge, Appraiser (sometimes hereinafter "Respondent" or "Beveridge"), License No.: RA-971. Respondent Murphy filed an Answer and Affirmative Defenses to the Complaint on or about August 18, 2015 and denied the allegations of the Complaint. Prior to hearing, Respondent Murphy, without admission of liability, announced to the Board his consent to the entry of this Consent Order to resolve all allegations within the Board's Complaint. By entering into this Consent Order, Respondent Murphy waives the right to a hearing with full due process and the right to petition for appeal from any adverse decision resulting from a hearing. Having reached an agreement with Respondent Murphy in this matter, the Board issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

The Mississippi Real Estate Appraiser Licensing and Certification Board is charged by law with the regulation of the practice of real estate appraisal in Mississippi including matters relating to real estate appraiser standards, qualifications and licensing, and disciplinary functions pursuant to §§73-34-1, *et seq.*, Miss. Code Ann. (1972), as amended. The Board, pursuant to this authority, has full, complete and proper jurisdiction over the parties and subject matter herein.

II.

Respondent, Richard L. Murphy is an adult resident of Louisiana whose last known address of record with the Board is 19411 Helenberg Rd., Suite 204, Covington, Louisiana 70433. Respondent Murphy is the holder of a Mississippi Certified General real estate appraiser's license, No. GA-666, issued by the Board pursuant to 73-34-1, *et seq.*, Miss. Code Ann. (1972), as amended, and, as such, he is subject to all of the provisions, rules, regulations and statutes governing the appraisal of real property and licensing of real estate appraisers under Mississippi Law.

III.

On or about September 27, 2013, Respondent Murphy performed an appraisal and/or supervised the performance of an appraisal of property located at 16005 Hwy. 49, Gulfport, Mississippi, and issued an Appraisal Report (sometimes hereinafter the "Report"). The owner of the referenced property is Sharon Levens.

IV.

On or about April 4, 2014, the Board received a complaint from Ms. Levens regarding the appraisal of her property. Included was a copy of a letter of even date to Hancock/Whitney Bank of Gulfport, Mississippi (sometimes hereinafter the "Bank") wherein Ms. Levens complained of the referenced

Appraisal Report submitted to the Bank by Respondent Richard Murphy. Ms. Levens complained that the subject appraisal Report included a certification by Respondent Murphy that he had personally inspected the property although Ms. Levens claimed that Murphy had not in fact inspected her property. Ms. Levens complained that her property was inspected on September 27, 2013 by Respondent Victoria Beveridge who was not then licensed to appraise property in Mississippi.

V.

The Board opened an investigation and, on or about April 24, 2014, requested Respondent Murphy provide the Board with any and all documents related to the subject appraisal including complete work file. On or about May 9, 2014, the Board received correspondence from Respondent Murphy in response to the complaint of Sharon Levens and, thereafter, received copies of the subject Appraisal Report and documentation certified to be the workfile for the appraisal assignment.

VI.

Respondent Murphy was engaged on or about September 18, 2013 to perform the appraisal assignment for the Levens property. The "Scope of Services" of the assignment included "Inspection Requirements: An interior and exterior inspection of the subject property in sufficient detail to determine marketability."

VII.

In his written response to the complaint from Ms. Levens that he had not inspected her property, Respondent Murphy stated that he inspected the exterior of the property on or about September 20, 2013. Murphy stated that, at the time of the exterior inspection, he considered the highest and best use would be to demolish the house on the property and use the lot commercially. Murphy stated that he assumed the property would be rezoned from single family to commercial and that, in such a situation, it would not be necessary to go inside the house for an interior inspection.

VIII.

Respondent Murphy ultimately understood that the local zoning authority would not likely rezone the subject property from single family to commercial. Murphy stated “At that point we needed to start over and consider the highest and best use to be a single family residence located on a busy state highway. We called to schedule an inspection of the interior of the house and Ms. Beveridge inspected the interior on 9/27/2013.” The “Appraiser’s Certification” section of the Appraisal Report contained Respondent Murphy’s certification that “I performed a complete visual inspection of the interior and exterior areas of the subject property” when, in fact, the interior inspection was completed by Respondent Victoria Beveridge who was not then licensed to appraise real property in Mississippi.

IX.

Respondent Murphy referenced the assistance of Victoria Beveridge in the addendum to the Appraisal Report. Respondent stated in the addendum to the Appraisal Report that “The report was made with the assistance of Victoria Beveridge Louisiana State Certified Residential Appraiser #0189.” Victoria Beveridge was not licensed by the State of Mississippi on the effective date of the Appraisal Report but was identified as having provided significant appraisal assistance. Victoria Beveridge’s name was not stated in the Appraiser’s Certification.

X.

Respondent Murphy did not provide verified documentation or analysis in the work file for various information stated in the referenced Appraisal Report. Certain Multiple Listing Service (MLS) reports reflect no third-party verification. Verification sources for certain information stated in the Sales Comparison Approach portion of the Appraisal Report reflect “courthouse” but no tax records or documents were found in the work file for the comparables stated in the Appraisal Report. The work file contained no documentation to show the analysis employed in the Cost Approach section of the

Appraisal Report. Respondent stated the site value was concluded based upon vacant land sales but the work file contained no verified documentation in support of that conclusion.

CONCLUSIONS OF LAW

XI.

The Board concludes the above and foregoing described acts and conduct of Respondent Richard Murphy constitute violations of Miss. Code Ann. Sections 73-34-35(1)(l), 73-34-37 and 73-34-39(1), as amended, and more specifically the Years 2012-2013 Uniform Standards of Professional Appraisal Practice (USPAP) Record Keeping Rule, Scope of Work Rule (*Problem Identification, Scope of Work Acceptability and Disclosure Obligations*), and Standards Rules 1-2(e)(i),(iv) and (h), 1-4(b)(i) and (ii), 2-2(b)(iii),(vii) and (viii) and 2-3, which state in relevant parts:

§73-34-35(1): ...[T]he rights of any licensed appraiser or licensed certified real estate appraiser may be revoked or suspended, or the holder of the license may be otherwise disciplined, in accordance with the provisions of this chapter for ...:

(l) Any act or conduct, whether the same or of a different character than specified above, which constitutes or demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; or any other violation of the provisions of this chapter and of rules and regulations established by the board.

§73-34-37: Each real estate appraiser licensed under this chapter must comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice...

§73-34-39(1): A licensed real estate appraiser shall retain for a period of five (5) years the original or a true copy of: (a) each appraisal report prepared or signed by such real estate appraiser; and (b) all supporting data assembled and formulated by the appraiser in preparing each such appraisal report.

2012-2013 USPAP REQUIREMENTS

RECORD KEEPING RULE: An appraiser must prepare a workfile for each appraisal, or appraisal review, or appraisal consulting assignment. A workfile must be in existence prior to the issuance of any report...

The workfile must include:

- all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other documentation...

SCOPE OF WORK RULE: For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must:

1. identify the problem to be solved;
2. determine and perform the scope of work necessary to develop credible assignment results; and
3. disclose the scope of work in the report.

An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.

Problem Identification: An appraiser must gather and analyze information about those assignment elements that are necessary to properly identify the appraisal, appraisal review or appraisal consulting problem to be solved.

Comment: ...In an appraisal assignment, for example, identification of the problem to be solved requires the appraiser to identify the following assignment elements:

- subject of the assignment and its relevant characteristics; and
- assignment conditions.

This information provides the appraiser with the basis for determining the type and extent of research and analyses to include in the development of an appraisal...

Assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.

Scope of Work Acceptability: The scope of work must include the research and analyses that are necessary to develop credible assignment results.

Determining the scope of work is an ongoing process in an assignment. Information or conditions discovered during the course of an assignment might cause the appraiser to reconsider the scope of work.

An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

Disclosure Obligations: The report must contain sufficient information to allow intended users to understand the scope of work performed.

Comment: Proper disclosure is required because clients and other intended users rely on the assignment results. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

STANDARD RULE 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Standards Rule 1-2: In developing a real property appraisal, an appraiser must:

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including;

(i) its location and physical, legal, and economic attributes;

(iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature;...

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.

Standards Rule 1-4: In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) develop an opinion of site value by an appropriate appraisal method or technique;

(ii) analyze such comparable cost data as are available to estimate the cost anew of the improvements (if any)...

STANDARD RULE 2: REAL PROPERTY APPRAISAL, REPORTING

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Standards Rule 2-2: Each written real property 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 Use Appraisal Report.

(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

- (iii)** summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;

- (vii)** summarize the scope of work used to develop the appraisal;

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal assistance, the appraiser must summarize the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with Standards Rule 2-3.

- (viii)** summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: A Summary Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

When reporting an opinion of market value, a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5 is required. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

Standards Rule 2-3: Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- ___ the statements of fact contained in this report are true and correct.
- ___ the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
- ___ I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- ___ I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- ___ I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- ___ my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- ___ my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- ___ my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- ___ I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- ___ no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must

be stated.)

Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes personal property, business or intangible asset assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

The names of individuals providing significant real property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 2-2(a), (b), or (c)(vii), as applicable.

DISCIPLINARY ORDER

XII.

The Board, with the agreement and consent of Respondent Richard Lequesne Murphy, hereby orders and imposes discipline as follows:

- A) Respondent Murphy must complete a fifteen (15) hour *2016-2017 National USPAP* course, and pass the accompanying examination, no later than June 30, 2016.

- B) Respondent Murphy must complete a seven (7) hour *Defendable Work File* course within one hundred and eighty (180) days of the date of this Consent Order.
- C) Respondent Murphy must complete a four (4) hour *Supervising Appraiser and Appraiser Intern Training* course within one hundred and eighty (180) days of the date of this Consent Order.
- D) The Board Staff recommends that the Respondent Murphy complete the mandated courses in a classroom environment, if available. The credit hours generated by the successful completion of the mandated courses may not be used to satisfy the twenty-eight (28) hours of required continuing education, but can be used toward supervisor education.
- E) Respondent Murphy, as evidenced by his signature hereto, expressly agrees that if he fails to deliver to the Board Administrator evidence that he has successfully completed all of the required courses set forth herein, including evidence of passing grades on any accompanying examination, within the required time periods, such failure shall constitute grounds for additional disciplinary action by the Board without further notice to Respondent.
- F) This disciplinary action shall be reported to and posted with applicable and appropriate authorities including the Board's newsletter and/or website.
- G) This action and order of the Board shall be public record and shall be spread upon the Minutes of the Board as its official act and deed.
- H) Respondent Murphy, as evidenced by his signature hereto, waives any and all objections or legal challenges he may have regarding or arising out of this matter, the entry of this Consent Order or any of its terms. He expressly waives any legal objections that may otherwise be available to him as to the Board taking this matter up preliminarily for purpose of considering and voting on whether or not to enter into this Consent Order.

I) Should the Board decline the entry of this Consent Order, Respondent Murphy understands and acknowledges that he remains entitled to a fair and impartial hearing of this matter before the Board.

SO ORDERED, this the 12 day of November, 2015.

MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: _____

John Holliday
John Holliday, Chairperson
For and on Behalf of the Board

AGREED:

Richard Lequesne Murphy
RICHARD LEQUESNE MURPHY

Date

11/9/15

