

Before the
N.H. Real Estate Appraiser Board
Concord, N.H. 03301

In the Matter of:

Ann E. Schoonman, #NHLR-299
(Disciplinary Matter)

Case No. 16.01

FINAL DECISION AND ORDER

Before the New Hampshire Joint Board of Licensure & Certification, Real Estate Appraiser Board ("Board") is an adjudicatory/disciplinary proceeding in the Matter of Ann E. Schoonman, NH Licensed Residential Appraiser #299 ("Respondent" or "Ms. Schoonman") in Case Number 16.01.

BACKGROUND INFORMATION

On or about February 23, 2016, a complaint was filed with the Board's office. The grievance involved an appraisal written by the Respondent on a property located at 134 Highlands Drive, Conway, New Hampshire 03818. Subsequent to an investigation, on September 16, 2016, the Board issued a Notice of Hearing scheduled for October 12, 2016 at 9:30 a.m. On September 28, 2016, the Board issued a listing of exhibits and witnesses. On October 11, 2016, Program Specialist, Bobbie Carter received an email from Ms. Schoonman stating that she would not be in attendance at the hearing. On October 11, 2016, Ms. Carter responded asking if this was a request to postpone. No response was received. This hearing went forward on October 12, 2016 as scheduled.

On Wednesday, October 12, 2016, at 9:35 a.m., the Board commenced with the adjudicatory/disciplinary hearing in the above captioned matter. Board members present were:

Patricia Sherman, Chairperson, Presiding Officer
Lee Carroll, Public Member, Vice-Chairperson
George Lamprey, Board Member
Charles Schubert, Board Member
Kimothy Griffin, Banking Commissioner Designee
Donald A. St. Germain, Lending Institution Member

The following exhibits were introduced into evidence and accepted into the record:

Hearing Counsel's exhibits: I. Grievance
II. Copy of Appraisal Report
III. Investigative Report

FINDING OF FACTS

The Board heard testimony from Ren Horne, the New Hampshire Office of Professional Licensure and Certification investigator who had been assigned to the case to act as the complaint officer. Mr. Horne submitted an Appraisal Review Report ("ARR") to the Board on or about June 21, 2016 submitted by George Brooks. Mr. Brooks, a certified appraiser, is an investigator hired by the New Hampshire Office of Professional Licensure and Certification independently to conduct a review of the aforementioned appraisal. This ARR was the basis for the Board to issue the Notice of Hearing and is incorporated within the Notice of Hearing as the allegations. The Board finds Mr. Horne's testimony at the hearing was professional, forthright and credible.

In light of the testimony and exhibits, the Board finds the following facts:

1. The Respondent was granted a certificate to complete general appraisals in the State of New Hampshire on January 1, 2003. The Respondent's license status is expired.
2. On December 17, 2015, the Respondent appraised a property located at 134 Highlands Drive, Conway, New Hampshire 03818.

3. There were violations of the Uniform Standards of Professional Appraisal Practice (USPAP). They are as follows:

Competency Rule: The appraiser must determine, prior to accepting an assignment, that he or she can perform the assignment competently. Competence requires:

1. The ability to properly identify the problem to be addressed;
2. The knowledge and experience to complete the assignment competently; and
3. Recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.

Ethics Rule: An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics. An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that an individual represents that he or she is performing the service of an appraiser.

Ethics Conduct Section: An appraiser must perform assignments with impartiality, objectivity, independence, and without accommodation of personal interests:

- Must not use or communicate a report that is known by the appraiser to be misleading or fraudulent.

Record Keeping Rule 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 data, information, and documentation.

Scope of Work Rule: For each appraisal and appraisal review 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.

SR1-1(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

SR1-1(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

SR1-2(f) identify any extraordinary assumptions necessary in the assignment.

SR1-2(g) identify any hypothetical conditions necessary in the assignment.

SR1-2(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.

SR1-3 When necessary for credible assignment results in developing a market value opinion, an appraiser must:

(a) Identify and analyze the effect on use and value of existing land regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends; and

(b) develop an opinion of the highest and best use of the real estate.

SR1-4 In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(a) when a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

SR1-6 In developing a real property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approach used; and

(b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).

SR2-1 Each written or oral real property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly;

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions and limiting conditions used in the assignment.

SR2-2 Each written real property appraisal report must be

prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report. SR2-2(a)(v) when an opinion of reasonable exposure time has been developed in compliance with Standards Rule 1-2(c), the opinion must be stated in the report.

SR2-2(a)(x) when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion;

CONCLUSIONS OF LAW

Applicable Laws:

RSA 310-B:18 Disciplinary Proceedings states in pertinent part:

The board may revoke or suspend a license or certification; may assess a fine of not more than \$2,000 per violation or, in the case of a continuing violation, \$100 for each day the violation continues, whichever would be greater; may require mandatory completion of continuing education; or may take any combination of the preceding actions, relating to any real estate appraiser, in accordance with the provisions of this chapter, upon any of the grounds set forth in this section for any of the following acts or omissions:

VII. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal.

VIII. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal, as determined by the board.

RSA 310-B:18-a Standards for Professional Conduct states:

For purposes of RSA 310-B:18, the Uniform Standards of Professional Appraisal Practice (USPAP) ethical and professional conduct standards in effect at the time of the appraisal assignment shall be the ethical and professional conduct standards to be followed at the time of any violation.

Real Estate Appraiser Rule Rab 501.01 Purpose states:

Rab 501.01 Purpose. The purpose of this chapter is to establish a New Hampshire code of ethics in accordance with RSA 310-B:18-a and USPAP by which all licensed and certified real estate appraisers shall abide.

Uniform Standards of Professional Appraisal Practice Competency Rule states:

The appraiser must determine, prior to accepting an assignment, that he or she can perform the assignment competently. Competence requires:

1. The ability to properly identify the problem to be addressed;
2. The knowledge and experience to complete the assignment competently; and
3. Recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.

Uniform Standards of Professional Appraisal Practice Ethics Rule states:

An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics. An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service of an appraiser.

Uniform Standards of Professional Appraisal Ethics Conduct Section states:

An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests:

- Must not use or communicate a report that is known by the appraiser to be misleading or fraudulent.

Uniform Standards of Professional Appraisal Record Keeping Rule states:

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 data, information, and documentation.

Uniform Standards of Professional Appraisal Practice Scope of Work Rule states:

For each appraisal and appraisal review assignment, an appraiser must:

4. identify the problem to be solved;
5. determine and perform the scope of work necessary to develop credible assignment results; and
6. 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.

USPAP SR1-1(a) states an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

USPAP SR1-1(c) states an appraiser must not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

USPAP SR1-2(f) states an appraiser must identify any extraordinary assumptions necessary in the assignment.

USPAP SR1-2(g) states an appraiser must identify any hypothetical conditions necessary in the assignment.

USPAP SR1-2(h) states an appraiser must determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.

USPAP SR1-3 states: When necessary for credible assignment results in developing a market value opinion, an appraiser must:

(a) Identify and analyze the effect on use and value of existing land regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends; and

(b) develop an opinion of the highest and best use of the real estate.

USPAP SR1-4 states: In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(a) when a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

USPAP SR1-6 states: In developing a real property appraisal, and appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approach used; and

(b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).

USPAP SR2-1 states: Each written or oral real property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly;

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions and limiting conditions used in the assignment.

USPAP SR2-2 states: Each written real property appraisal report must be

prepared under one of the following options and prominently state which option is used:
Appraisal Report or Restricted Appraisal Report.

USPAP SR2-2(a)(v) states: when an opinion of reasonable exposure time has been developed in compliance with Standards Rule 1-2(c), the opinion must be stated in the report.

USPAP SR2-2(a)(x) states: when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion;

RULINGS

The Board makes the following rulings by a preponderance of the evidence:

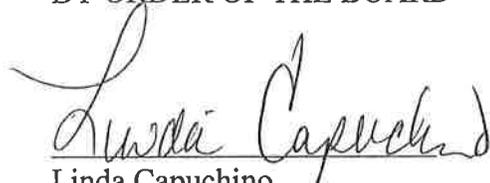
1. The Board finds that the respondent has Violated the Uniform Standards of Professional Appraisal Practice Competency Rule, USPAP 2016-2017 edition.
2. The Board finds that the respondent has Violated the Uniform Standards of Professional Appraisal Practice Ethics Rule, USPAP 2016-2017 edition.
3. The Board finds that the respondent has Violated the Uniform Standards of Professional Appraisal Practice Ethics Conduct Section, USPAP 2016-2017 edition.
4. The Board finds that the respondent has Violated the Uniform Standards of Professional Appraisal Practice Record Keeping Rule, USPAP 2016-2017 edition.
5. The Board finds that the respondent has Violated the Uniform Standards of Professional Appraisal Practice Scope of Work Rule, USPAP 2016-2017 edition.
6. The Board finds that the respondent has Violated Standards Rules SR1-1 (a) and (c).
7. The Board finds that the respondent has Violated Standards Rules SR1-2 (f), (g) and (h).
8. The Board finds that the respondent has Violated Standards Rules SR1-3 (a) and (b).
9. The Board finds that the respondent has Violated Standards Rule SR1-4 (a)
10. The Board finds that the respondent has Violated Standards Rules SR1-6 (a) and (b).
11. The Board finds that the respondent has Violated Standards Rule SR2-1 (a), (b) and (c).
12. The Board finds that the respondent has Violated Standards Rules SR2-2 (a)(v) and (a)(x).

THEREFORE, IT IS ORDERED, pursuant to RSA 310-B:18 the Board imposes the following sanctions:

- A. The State of New Hampshire Licensed Residential Appraiser license of Ann E. Schoonman NHLR-299 is hereby revoked.
- B. This order shall become a permanent document in the Respondent's file which is maintained by the Board as a public document.
- C. This Order shall take effect on the date it is signed by an authorized representative of the Board.
- D. A motion for rehearing, reconsideration, or clarification shall be filed within 30 days of the effective date of this Order. This motion shall be in accordance with Rab 214. Filing a motion for rehearing or reconsideration shall be a prerequisite to appealing this Order.

Dated: October 12, 2016

BY ORDER OF THE BOARD


Linda Capuchino
Division Director

