

I.

Based upon the foregoing, the Commission hereby states:

FINDINGS OF FACT

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.507, RSMo, for the purpose of licensing all persons engaged in the practice of real estate appraisal in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapter 339.500 to 339.549, RSMo.
2. Jim J. Below, II currently resides at 408 Osage Drive, Advance, Missouri 63730.
3. On or about September 21, 2012, Below completed the application for a residential appraiser certification.
4. On or about October 13, 2012, Below passed the residential appraiser examination.
5. On or about November 16, 2012, Below submitted his experience log containing twenty-four months and 2,500 hours of experience. The Commission requested two work samples based on his experience log.
6. On or about December 17, 2012, Below submitted two demonstration appraisals to the Commission for review.
7. The Commission met with Below on March 13, 2013 regarding the two appraisals, described below. Below also presented the Commission with his qualifications including education, professional education, experience and types of appraisals.

8. On or about March 24, 2013, the Commission completed its final review of Below's appraisal of a residential property located at 16430 Henry Street, Dexter, Missouri (Dexter Appraisal).

9. The Dexter Appraisal did not comply with several provisions of the Uniform Standards of Professional Appraisal Practice (USPAP):

- a. It failed to comply with USPAP Standards Rule 1-1(a) because Below did not develop the cost approach appropriately. Below incorrectly reported the effective age of the property with physical depreciation. Below did not assign any external obsolescence which inflated the value of the property indicated by this approach to value.
- b. It failed to comply with USPAP Standards Rule 1-1(b) because Below incorrectly adjusted the lot adjustment for comparable sale number 1. Comparable sale number 1 is located across the street from a golf course. Below did not report this fact nor was the adjustment used reflective of the adjacent golf course.
- c. It failed to comply with USPAP Standards Rule 1-4(b)(i) in that in using the cost approach to value, Below did not develop an opinion of the site value by an appropriate appraisal method or technique because Below did not provide any site comparable to support the opinion of value.
- d. It failed to comply with USPAP Standards Rule 1-4(b)(iii) in that in using the cost approach to value, Below did not analyze available comparable data to estimate the difference between the cost new and the present worth of the improvements in that Below did not assign external obsolescence for the subject property being overbuilt or excess supply in the market.

- e. It failed to comply with USPAP Standards Rule 2-1(b) because the written appraisal report did not contain sufficient information to enable the intended users of the appraisal to understand the report properly in that Below did not properly develop the cost approach to value.
- f. Overall, the Dexter Appraisal failed to comply with USPAP because Below did not accurately or adequately develop the cost approach to value. Below did not discuss external obsolescence in the market/neighborhood section and did not apply it in the cost approach. Below did not provide site sales to support the opinion of site value. Below's opinion of effective age did not accurately reflect the property because the property was constructed in 2004 but Below gave it an effective age of two to three years. However, Below reported no remodeling or rehabbing of the home and the effective age should have been closer to the actual age. As a result, the physical incurable depreciation was inaccurate in the report.

II.

CONCLUSIONS OF LAW

10. The Commission has authority to deny or refuse any certificate or license application pursuant to § 339.532.1, RSMo, which provides:

The Commission may refuse to issue or renew any certificate or license issued pursuant to sections 339.500 to 339.549 for one or any combination of causes stated in subsection 2 of this section. The Commission shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

11. The Commission has cause to deny or refuse Below's application for a certified residential appraiser license pursuant to § 339.532.2, RSMo, which provides:

The Commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

...

- (7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;
- (8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal[.]

12. As a result of Below's non-compliance with numerous provisions of USPAP in the Dexter Appraisal, the Commission has cause to deny or refuse Below's application for a residential appraiser certification pursuant to § 339.532.1, RSMo, and § 339.532.2 (7) and (8), RSMo.

13. As an alternative to refusing to issue a certification, the Commission may, at its discretion, issue a certification subject to probation, pursuant to § 324.038.1, RSMo, which provides:

Whenever a Commission within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the Commission, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

14. The Commission issues this Order in lieu of denial of Below's application for a residential appraiser certification. The Commission has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

15. Based on the foregoing, Jim J. Below, II is granted a residential appraiser certification, which is hereby placed on **PROBATION** for a period of one (1) year from the effective date of this Order, subject to the terms and conditions set forth below.

IV.

TERMS AND CONDITIONS

16. During the aforementioned probation, Jim J. Below, II shall be entitled to present himself and serve as a certified residential appraiser subject to the following terms and conditions:

- A. During the probationary period, Below shall not supervise any real estate appraisal, as defined by § 339.503(1), RSMo (as amended), of property located in the state of Missouri nor sign any appraisal for property located in Missouri as an appraisal supervisor.
- B. During the probationary period, Below shall maintain a log of all appraisal assignments completed, including appraisal values. Below shall submit a true and accurate copy of his log to the MREAC within three (3) months after the effective date of this Order and a copy of the log within nine (9) months after the effective date of this Order. All logs shall comply with rule 20 CSR 2245-2.050.
- C. During the disciplinary period, Below shall keep the Commission informed of his current work and home telephone numbers. Below shall notify the Commission in writing within ten days (10) of any change in this information.
- D. During the probationary period, Below shall timely renew his certification granted hereby and shall timely pay all fees required for certification and comply with all other Commission requirements necessary to maintain said license in a current and active state.
- E. During the probationary period, Below shall accept and comply with unannounced visits from the Commission's representatives to monitor compliance with the terms and conditions of this Order.
- F. During the disciplinary period, Below shall appear in person for interviews with the Commission or its designee upon request.
- G. Below shall submit written reports to the Commission every six (6) months during the probationary period stating truthfully whether there has been compliance with all terms

and conditions of this Order. The first such report shall be received by the Commission on or before six months from the effective date of this Order.

- H. Below shall execute any release or provide any other authorization necessary for the Commission to obtain records of his employment during the terms of the permit.
- I. Below shall comply with all provisions of §§ 339.500 to 339.549, RSMo; all federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri, all other states and territories of the United States, and the ordinances of political subdivisions of any state or territory. Below shall immediately report any violation of this provision to the Commission in writing. Below shall also immediately report any allegation that he has violated this provision to the Commission, in writing. Examples of allegations of such a violation include, but are not limited to, any arrest, summons, inquiry by any law enforcement official into these topics, or inquiry into these topics by a health oversight agency. Below shall sign releases or other documents authorizing and requesting the holder of any closed record related to this paragraph to release such records to the Commission.
- J. Below is hereby informed that the Missouri Real Estate Appraisers Commission will maintain this Order as an open record of the Commission as provided in Chapters 610, 339 and 324, RSMo. He shall truthfully answer any inquiry regarding his license status or disciplinary history.
- K. Below shall immediately submit documents showing compliance with the requirements of this Order to the Commission when requested.
- L. In the event the Commission determines that Below has violated any term or condition of this Order, the Commission may, in its discretion, after an evidentiary hearing, suspend, revoke, or otherwise lawfully discipline Below's certification.
- M. No Order shall be entered by the Commission pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the Commission in accordance with the provisions of Chapter 536, RSMo.
- N. If, at any time during the probationary period, Below changes his address from the state of Missouri, or ceases to maintain his certified residential appraiser license current or active under the provisions of Chapter 339, RSMo (as amended), or fails to keep the Commission advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.
- O. Unless otherwise specified by the Commission, all reports, documentation, notices, or other materials required to be submitted to the Commission shall be forwarded to: Missouri Real Estate Appraisers Commission, P.O. Box 1335, Jefferson City, Missouri 65102.

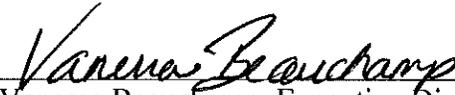
P. Any failure by Below to comply with any condition of discipline set forth herein constitutes a violation of this Order.

17. This Order does not bind the Commission or restrict the remedies available to it concerning any violation by Respondent of the terms and conditions of this Order, Chapter 339, RSMo, or the regulations promulgated thereunder.

18. The Commission will maintain this Order as an open, public record of the Commission as provided in Chapters 324, 339 and 610, RSMo (as amended).

SO ORDERED, EFFECTIVE THIS 27th DAY OF SEPTEMBER, 2013.

MISSOURI REAL ESTATE APPRAISERS COMMISSION



Vanessa Beauchamp, Executive Director