

BEFORE THE MISSOURI
STATE REAL ESTATE APPRAISERS COMMISSION

MISSOURI REAL ESTATE APPRAISERS))	
COMMISSION,)	
)	
Petitioner,)	
)	
v.)	No. 13-0487 RA
)	
MARJORIE SEBELIUS,)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

I.

Statement of the Case

On or about June 24, 2013, the Administrative Hearing Commission (AHC) entered its Default Decision, pursuant to § 621.100.2, RSMo,¹ in the case of *Missouri Real Estate Appraisers Commission v. Marjorie Sebelius*, Case No. 13-0487 RA. The AHC certified the records of its proceedings and its Default Decision in *Missouri Real Estate Appraisers Commission v. Marjorie Sebelius*, Case No. 13-0487 RA, to the Missouri Real Estate Appraiser Commission (the “MREAC”) on August 6, 2013. In its Default Decision, the Administrative Hearing Commission found that Respondent Sebelius’ certificate as a certified residential real estate appraiser was subject to disciplinary action by the MREAC pursuant to § 339.532.2(5), (6), (7), (8), (9), (10), and (14) RSMo.

The MREAC has received and reviewed the record of the proceedings before the Administrative Hearing Commission, including the complaint filed before the AHC on March 26, 2013, and the Default Decision. The Default Decision of the Administrative Hearing

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

Commission, and the entire record certified to the MREAC, including the complaint, is hereby adopted and incorporated herein by reference.

Pursuant to notice and § 621.110 and § 339.532.3, RSMo, the MREAC held a hearing on September 11, 2013, at approximately 9:45 a.m. at the Missouri Council of School Administrators Building, 3530 Amazonas Drive, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's certification. The MREAC was represented by Assistant Attorney General You-Jin Han. Respondent was present for the hearing but was not represented by counsel. After being present and considering all of the evidence presented during the hearing, the MREAC issues the following Findings of Facts, Conclusions of Law and Order.

II.

Findings of Fact

1. Respondent Marjorie Sebelius holds a certificate as a certified residential real estate appraiser from the MREAC (certification no. 2001005233). Respondent Sebelius' certification is current and active.
2. The MREAC hereby adopts and incorporates herein the Default Decision of the Administrative Hearing Commission and the record in *Missouri Real Estate Appraisers Commission v. Marjorie Sebelius*, Case No. 13-0487 RA.
3. In its June 24, 2013, Default Decision, the Administrative Hearing Commission found the MREAC has grounds to discipline Respondent's certification pursuant to § 339.532.2(5), (6), (7), (8), (9), (10), and (14) RSMo, as alleged in the MREAC's properly pled complaint.

4. As set out the MREAC's complaint filed before the Administrative Hearing Commission on March 26, 2013 which was before the Administrative Hearing Commission in issuing its Default Decision, Respondent completed an appraisal of residential property located at 290 Hamemerstone Drive, Moscow Mills, Missouri, in a manner that violated the Uniform Standards of Professional Appraisal Practice (USPAP) and which included significant and substantial errors of omission and/or commission in the appraisal reports. Respondent's completion of the appraisal in violation of USPAP as described in the complaint, constituted cause to discipline her certification pursuant to § 339.532.2(5), (6), (7), (8), (9), (10), and (14), RSMo.

5. The MREAC set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion.

III.

CONCLUSIONS OF LAW

6. The MREAC has jurisdiction over this proceeding pursuant to § 621.110 and § 339.532.3, RSMo.

7. The MREAC expressly adopts and incorporates by reference the Default Decision of the Administrative Hearing Commission and the record in *Missouri Real Estate Appraisers Commission v. Marjorie Sebelius*, Case No. 13-0487 RA, finding cause to discipline Respondent's certification as a certified residential real estate appraiser pursuant to § 339.532.2(5), (6), (7), (8), (9), (10), and (14), RSMo.

8. As a result of the foregoing, and as identified in the Default Decision of the Administrative Hearing Commission, Respondent's certification as a certified residential real

estate appraiser is subject to disciplinary action by the MREAC, pursuant to § 339.532.2(5), (6), (7), (8), (9), (10), and (14), RSMo.

9. The MREAC has determined that this Order is necessary to ensure the protection of the public.

IV.

Order

10. Having fully considered all the evidence before the MREAC, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the MREAC, that Respondent Sebelius' certification as a certified residential real estate appraiser is hereby placed on **PROBATION** for a term of two (2) years, subject to the following terms and conditions:

- A. Sebelius shall be entitled to engage in the practice of real estate appraising as a certified residential real estate appraiser pursuant to § 339.500 to § 339.549, RSMo, provided Sebelius adheres to all of the terms and conditions of this Order.
- B. During the probationary period, Sebelius shall not supervise any real estate appraisal, as defined by § 339.503(1), RSMo, of property located in the state of Missouri nor act in any manner as an appraisal supervisor.
- C. Sebelius shall successfully attend and complete: 1) a fifteen (15) hour sales comparison and income approach course/class approved by the MREAC; and 2) a fifteen (15) hour site valuation course/class approved by the MREAC. The courses/classes must include a testing requirement which test Sebelius shall successfully complete and pass. Sebelius shall submit proof of successful completion of the aforementioned classes/courses and test to the MREAC within one year of the effective date of her probation. No portion of the classes/courses required by this Order may be used to satisfy the appraiser continuing education requirements established by Chapter 339, RSMo, or the rules of the MREAC.
- D. During the probationary period, Sebelius shall maintain a log of all appraisal assignments completed, including appraisal values. Sebelius shall submit a true and accurate copy of his log to the MREAC every six (6) months after the effective date of this Order. Each log, except for the final log, shall be submitted within 15 days after the end of the respective six month period. Sebelius shall submit the final log 30 days prior

to the end of the probationary period. All logs shall comply with rule 20 CSR 2245-2.050.

E. During the probationary period, Sebelius shall submit samples of her appraisals as requested by the MREAC for review.

F. During the probationary period, Sebelius shall comply with all applicable provisions of Chapter 339, RSMo, all applicable MREAC regulations and all applicable federal and state laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

G. Sebelius shall meet in person with the MREAC or its representative at any such time and place as required by the MREAC or its designee upon notification from the MREAC or its designee. Said meetings will be at the MREAC's discretion and may occur periodically during the probationary period.

H. Sebelius shall immediately submit documents showing compliance with the requirements of this Order to the MREAC when requested by the MREAC or its designee.

I. If Sebelius fails to comply with the terms of this order during the probationary period, in any respect, the MREAC may choose to conduct a hearing before it either during the probationary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred. In the event MREAC determines that Sebelius has violated any term or condition of this Order, the MREAC may, in its discretion, vacate this Order and may impose additional discipline as deemed appropriate by the MREAC, including revocation of the certification, pursuant to § 324.042, RSMo. The MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred.

J. Sebelius shall keep the MREAC apprised of her current home and work addresses and telephone numbers. Sebelius shall inform the MREAC in writing within ten (10) days of any change in this information.

K. During the probationary period, Sebelius shall timely renew her certificate, timely pay all fees required for certification and comply with all other requirements necessary to maintain her certificate current and active.

L. During the probationary period, Sebelius shall accept and comply with unannounced visits from the MREAC's representatives to monitor compliance with the terms and conditions of this Order.

M. This Order does not bind the MREAC or restrict the remedies available to the MREAC for any violation of § 339.500 to § 339.549, RSMo, not specifically mentioned in this document.

N. Upon the expiration of the probationary period, Sebelius's certificate shall be fully restored if all other requirements of law have been satisfied provided, however, that in the event the MREAC determines that Sebelius has violated any term or condition of this Order, the MREAC may, in its discretion, vacate and set aside the probation imposed herein and may impose any other lawful discipline the MREAC shall deem appropriate, including, revocation of said certification. No order shall be entered by the MREAC pursuant to this paragraph without any required notice and opportunity for a hearing before the MREAC in accordance with Chapter 536, RSMo.

O. If the MREAC determines that Sebelius has violated a term or condition of this Order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the MREAC may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation.

P. If, at any time during the probationary period, Sebelius ceases to reside in the state of Missouri, or ceases to maintain her certificate as a certified residential real estate appraiser current or active under the provisions of Chapter 339, RSMo, or fails to keep the MREAC advised of her current places of residence and business, 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.

Q. Unless otherwise specified by the MREAC, all reports, documentation, evaluations, notices, or other materials required to be submitted to the MREAC shall be forwarded to: Missouri Real Estate Appraisers Commission, P.O. Box 1335, Jefferson City, Missouri 65102.

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

11. The terms of this Order are contractual, legally enforceable, and binding and not mere recitals. Except as otherwise contained herein, neither this Order nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

12. The MREAC will maintain this Order as an open record of the MREAC as provided in Chapters 339, 610 and 324, RSMo.

SO ORDERED, THIS 12th day of September, 2013.

**MISSOURI REAL ESTATE
APPRAISERS COMMISSION**

A handwritten signature in black ink, reading "Vanessa Beauchamp", written over a horizontal line.

Vanessa Beauchamp,
Executive Director
Missouri Real Estate Appraisers Commission

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

MAR 26 2013

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI REAL ESTATE)
APPRAISERS COMMISSION,)
3605 Missouri Boulevard)
P.O. Box 1335)
Jefferson City, MO 65102,)
(573) 751-0293)

Petitioner,)

v.)

MARJORIE SEBELIUS)
208 W. Rose Hill Ave.)
St. Louis, MO 63122)
(314) 541-1940)

Respondent.)

Case No. 13-0487RA

COMPLAINT

Petitioner, the Missouri Real Estate Appraisers Commission
("MREAC"), by and through its counsel, the Attorney General of the State of
Missouri, states as follows for its cause of action against Respondent,
Marjorie Sebelius:

ALLEGATIONS

1. The MREAC was established pursuant to § 339.507, RSMo¹, for the purpose of executing and enforcing the provisions of §§ 339.500 through 339.549, RSMo, as amended.

2. Respondent Marjorie Sebelius (“Sebelius”) is certified by the MREAC as a state-certified residential real estate appraiser, certificate no. 2001005233. Such certification is and was at all times relevant to this action current and active, except that it was expired from July 1, 2008 through August 17, 2008.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.532.2, RSMo Supp. 2012.

4. Section 339.532.2, RSMo Supp. 2012, states in part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 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:

.....

(5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the

¹ All statutory references are to the 2000 Revised Statutes of Missouri unless otherwise noted.

performance of the functions or duties of any profession licensed or regulated by sections 339.500 to 339.549;

(6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections 339.500 to 339.549;

(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;

(9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections 339.500 to 339.549 or the regulations of the commission for the administration and enforcement of the provisions of sections 339.500 to 339.549;

.....

(14) Violation of any professional trust or confidence[.]

5. Section 339.535, RSMo Supp. 2012, states:

State-certified real estate appraisers, state-licensed real estate appraisers, state-licensed appraiser trainees, and state-certified appraiser trainees shall comply with the Uniform Standards of Professional

Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.

Count I
Hammerstone Drive Appraisal

6. The MREAC adopts and incorporates paragraphs 1 through 5 above as though alleged fully herein.

7. On or about September 7, 2007, Sebelius completed and signed a summary appraisal report for residential real estate located at 290 Hammerstone Drive, Moscow Mills, Missouri 63362 ("Subject Property"). The effective date of the appraisal report was September 6, 2007. This appraisal valued the property at \$210,000. This appraisal shall be referred to hereinafter as the "Hammerstone Drive Appraisal Report."

8. The Subject Property was a ranch-style, residential property containing three bedrooms, two bathrooms, and an unfinished basement. It was located on a 9,310 square-foot site in the Majestic Lakes subdivision and was less than one year old at the time of the completion and effective dates of the Hammerstone Drive Appraisal Report.

9. Sebelius was required to develop and report the results of the Hammerstone Drive Appraisal in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), 2006 Edition.

10. The Hammerstone Drive Appraisal Report was prepared for American Home Lending Group, LLC, a Missouri Limited Liability Company.

11. In preparation and reporting of the Hammerstone Drive Appraisal Report, Sebelius made significant and substantial errors of omission and/or commission, including, but not limited to, failing to provide an accurate legal description of the Subject Property.

12. In the preparation and reporting of the Sales Comparison Analysis in the Hammerstone Drive Appraisal Report, Sebelius made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Failing to provide an accurate legal description of the lot for the Subject Property by describing it as "Lot 186 Majestic Lakes Plat 1," rather than "Lot 186 & Pt. Lot 185 Majestic Lakes Plat 1";
- b. Providing an inaccurate address for comparable sale one;
- c. Choosing superior comparable sales that were not within the same subdivision as the Subject Property and were instead at least one mile distant, and that were also dissimilar in lot size, gross living area, date of sale, age, and/or other physical characteristics, rather than selecting existing comparable sales that were located inside the same or nearby subdivisions and

more similar in size, age, sale date, and/or other characteristics to the Subject Property;

- d. Failing to adequately discuss differences between the characteristics of the Subject Property and possible comparable sales within the same subdivision as the Subject Property;
- e. Failing to discuss reasons for not including more similar, available comparable sales from the Subject Property's subdivision in the Appraisal Report;
- f. Failing to adequately discuss the possibility that the Subject Property was located on a premium lot;
- g. Failing to adequately develop and/or discuss land value;
- h. Failing to adequately develop and/or discuss the neighborhood characteristics for the Subject Property and whether the Subject Property generally conformed to the neighborhood and/or accurately report whether the Subject Property generally conformed to the neighborhood;
- i. Failing to complete the prior sales/transfer grid for comparable sale 1; and
- j. Failing to adequately develop and/or discuss adjustments made to the comparable sales, including those made for their age,

condition, the basements and finished rooms below grade, and other interior upgrades.

13. In the preparation and reporting of the Cost Approach in the Hammerstone Drive Appraisal Report, Sebelius made significant and/or substantial errors of omission and/or commission, including, but not limited to, failing to properly include support for the opinion of site value.

14. The Hammerstone Drive Appraisal Report is not credible and is misleading, and was developed and reported in violation of USPAP Standards 1 and 2.

15. USPAP Standard 1, regarding the development of an appraisal, states:

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.

16. USPAP Standard 2, regarding the reporting of an appraisal, states:

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.

17. Based on Sebelius's errors and/or omissions in developing and reporting the results of the Hammerstone Drive Appraisal, as alleged in this

complaint, Sebelius failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal in violation of USPAP Standard 1 and Standards Rule (“SR”) 1-1(a), which states:

In developing a real property appraisal, an appraiser must:

- (a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal[.]

18. Based on Sebelius’s errors and/or omissions in developing and reporting the results of the Hammerstone Drive Appraisal, as alleged in this complaint, Sebelius committed substantial errors of omission and/or commission that significantly affected the appraisal in violation of USPAP Standard 1 and SR 1-1(b), which states:

In developing a real property appraisal, an appraiser must:

....

- (b) not commit a substantial error of omission or commission that significantly affects an appraisal[.]

19. Based on Sebelius’s errors and/or omissions in developing and reporting the results of the Hammerstone Drive Appraisal, as alleged in this complaint, Sebelius rendered appraisal services in a careless and/or negligent manner in violation of USPAP Standard 1 and SR 1-1(c), which states:

In developing a real property appraisal, an appraiser must:

....

(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.

20. Based on Sebelius's errors and/or omissions in developing and reporting the results of the Hammerstone Drive Appraisal, as alleged in this complaint, Sebelius failed to properly identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal in violation of USPAP Standard 1 and SR 1-2(e), which states:

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; and

....

(iv) any known easements, restrictions, encumbrances, leases, reservations, covenants,

contracts, declarations, special assessments, ordinances, or other items of a similar nature.

21. Sebelius's errors and/or omissions in the preparation of the Sales Comparison Analysis and the Cost Approach, as alleged in this complaint, constitute violations of USPAP Standard 1 and SR 1-4(a) and (b), which state:

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.

(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[.]

22. By failing to provide adequate support for the reasoning and conclusions in the Sales Comparison Analysis and the Cost Approach in the Hammerstone Drive Appraisal Report, as alleged in this complaint, Sebelius violated USPAP Standard 2 and SR 2-1(a) and (b), which state:

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[.]

23. By failing to summarize information sufficient to identify the real estate involved in the Hammerstone Drive Appraisal, as alleged in this complaint, Sebelius reported the results of the appraisal in violation of USPAP Standard 2 and SR 2-2(b)(iii), which states:

(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[.]

24. By failing to provide adequate support for the reasoning and conclusions in the Sales Comparison Analysis and the Cost Approach in the Hammerstone Drive Appraisal Report, as alleged in this complaint, Sebelius failed to summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analysis, opinions, and conclusions, in violation of USPAP Standard 2 and SR 2-2(b)(viii), which states:

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

....

(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[.]

25. Based on Sebelius's errors and/or omissions in developing and reporting the results of the Hammerstone Drive Appraisal, as alleged in this complaint, Sebelius communicated results in a misleading and/or fraudulent manner, in violation of the Conduct provision of the USPAP Ethics Rule, which states in part:

An appraiser must perform assignments ethically and competently, in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests. . . . An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

26. Sebelius's conduct, as alleged in this complaint, demonstrates incompetency, misconduct, gross negligence, dishonesty, fraud and/or

misrepresentation in the performance of the functions and/or duties of a real estate appraiser, providing cause to discipline her real estate appraiser certification pursuant to § 339.532.2(5), RSMo.

27. Sebelius's conduct, as alleged in this complaint, violates standards for the development and/or communication of real estate appraisals as provided in or pursuant to §§ 339.500 to 339.549, RSMo, providing cause to discipline her real estate appraiser certification pursuant to § 339.532.2(6), RSMo.

28. Sebelius's conduct, as alleged in this complaint, demonstrates a failure and/or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, and/or communicating an appraisal, providing cause to discipline her real estate appraiser certification pursuant to § 339.532.2(8), RSMo.

29. Sebelius's conduct, as alleged in this complaint, demonstrates negligence and/or incompetence in developing an appraisal, in preparing an appraisal report, and/or in communicating an appraisal, providing cause to discipline her real estate appraiser certification pursuant to § 339.532.2(9), RSMo.

30. Each of Sebelius's USPAP violations, as alleged in this complaint, constitutes a violation of § 339.535, RSMo, providing cause to discipline her real estate appraiser certification pursuant to § 339.532.2(7) and (10), RSMo.

31. Sebelius's conduct, as alleged in this complaint, violates the professional trust and confidence she owed to her clients, the intended users of the appraisal report, and the public, providing cause to discipline her real estate appraiser certification pursuant to § 339.532.2(14), RSMo.

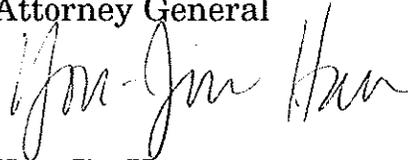
32. Sebelius's conduct, as alleged in this complaint, demonstrates that Sebelius rendered appraisal services in violation of the USPAP Ethics Rule, USPAP Standards 1 and 2, the USPAP Standards Rules cited above, and § 339.535, RSMo, providing cause to discipline Sebelius's certification as a state-certified real estate appraiser pursuant to § 339.532.2(5), (6), (7), (8), (9), (10), and (14), RSMo Supp. 2012.

CONCLUSION

WHEREFORE, the MREAC respectfully prays this Commission issue Findings of Fact and Conclusions of Law that cause exists for the MREAC to discipline the certification of Sebelius as a state-certified residential real estate appraiser for violations of §§ 339.500 through 339.549, RSMo, as amended, and the MREAC's regulations promulgated thereunder, and for such other relief as may be appropriate.

Respectfully submitted,

CHRIS KOSTER
Attorney General

A handwritten signature in black ink, appearing to read "You-Jin Han". The signature is written in a cursive, flowing style.

You-Jin Han
Assistant Attorney General
Missouri Bar No. 63858

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