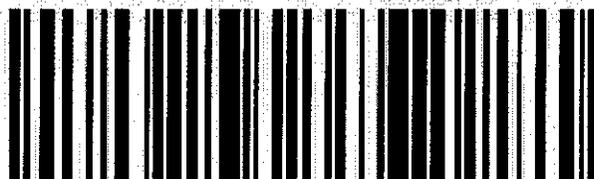


1156279730369



1156279730369

location	Collection-455
summary	Final Order of Discipline
author	Tracy Steel
expiration_date	08/06/2002
max_versions	4
title	O Connell Andrew 42RG00132900
document	O Connell Andrew 42RG00132900
keywords	
dsclass	Document
description	

COPY

FILED
BOARD OF
REAL ESTATE APPRAISERS
James Hsu 8/6/02
DR. JAMES S. HSU
 Executive Director

STATE OF NEW JERSEY
 DEPARTMENT OF LAW AND PUBLIC SAFETY
 DIVISION OF CONSUMER AFFAIRS
 STATE BOARD OF REAL ESTATE APPRAISERS

IN THE MATTER OF THE :
 SUSPENSION OR REVOCATION :
 THE LICENSE OF :
 :
 ANDREW O'CONNELL :
 RG01329 :
 :
 TO PRACTICE AS A REAL ESTATE :
 APPRAISER IN THE STATE OF :
 NEW JERSEY :
 :

Administrative Action
 FINAL ORDER
 OF DISCIPLINE



This matter came before the New Jersey State Board of Real Estate Appraisers (the Board) upon information received that the Board has reviewed, pursuant to which the following findings are made:

FINDINGS OF FACT

1. Respondent is a real estate appraiser in the State of New Jersey and has been a licensee of the Board at all times relevant hereto.

2. Respondent was notified by means of a communication dated March 4, 2002 by the U.S. Department of Housing and Urban Development (HUD), 100 Penn Square East, Philadelphia, PA 19107-3389 that HUD intended to remove him from the FHA Appraiser Roster for one year. (Exhibit A).

3. Respondent was removed from the HUD roster for one year following a field review of three of his appraisal reports. (Exhibit B). The reviews noted the following deficiencies:

A) with respect to respondent's appraisal of 16 East Bidwell Ave., Jersey City, failure to report an appraisal clearly and accurately pursuant to the Uniform Standards of Professional Appraisal Practice (USPAP), Standard Rule 2; failure to accurately report all readily observable property defects that affect the property's marketability; failure to report major defects which may impair the health or safety of the property occupants

Some of the significant defects noted were:

1) Comparable #1, 282 Randolph Ave., was 30 years old, while the subject, 16 East Bidwell, was 70 years old, according to the report. There was no adjustment made for this on the grid on Page 2 of the report.

2) Comparable #2, 155-157 Seaview Ave., transferred on January 9, 2001 for \$150,000; this was not indicated on the report. See Page 2, bottom, section for indication of prior sales within a year of the valuation date. This is a violation of Standards Rule 1-5(b) of the USPAP.

3) Comparable #3, 42 Bartholdi Ave., was a fully renovated property. The condition on Page 2 should have stated "good," not "average." There should have been an adjustment for the condition on the grid on Page 2.

4) Comparable #3's financing was not conventional, as the report indicated; it was through FHA.

5) The exterior walls of the subject are aluminum, not vinyl, as indicated in the report.

6) The following defects were not noted: peeling paint, damage to exterior stucco on the garage, aluminum siding missing on one side, handrail needed on front steps. Flat roof certification was needed.

7) The report indicates that there was a contract for sale of the subject for \$175,000; there is no analysis of that contract. This is a violation of Standards Rule 1-5(a).

B) with respect to respondent's appraisal of 105 Mallory St., Jersey City, (Exhibit D) failure to report an appraisal clearly and accurately pursuant to USPAP Standard Rule 2; value conclusion not supported by data and analysis in appraisal report; failure to

accurately report all readily observable property defects that affect the property's marketability; failure to report major defects which may impair the health or safety of the property occupants;

Some of the significant defects noted were:

1) All the comparables were in better overall condition than the subject property. All of them warranted condition adjustment.

2) The financing of comparable #1 was FHA, not conventional, as the report indicated.

3) The original value conclusion of \$209,000 was found to be an overvaluation; HUD found an estimated value of \$140,000.

4) The following defects were not noted: poor condition of shed in back yard, requiring removal; defective paint on roof trim; defective sidewalk. Flat roof certification was needed.

5) The report indicates the subject is under contract for \$205,000. (Exhibit D). There is no discussion or analysis of this contract. This is a violation of Standards Rule 1-5(a).

C) with respect to respondent's appraisal of 305 Winfield Ave., Jersey City, (Exhibit E) failure to report an appraisal clearly and accurately pursuant to USPAP Standard Rule 2; incorrectly reporting or analyzing significant physical characteristics; failure to report major defects which may impair the health or safety of the property occupants.

Significant defects noted were:

1) The exterior walls are vinyl and asphalt shingle, not brick and wood, as indicated in the report.

2) Comparable #2 warranted an adjustment for off-street parking, a covered porch, and a renovated kitchen and bath.

3) Flat roof certification was needed.

4) The report was "as is", not "subject to inspections and/or conditions listed on attached valuation condition sheet.

5) The report indicates a pending contract for \$140,000. (Exhibit E). There is no discussion or analysis of this contract. This is a violation of Standards Rule 1-5(b).

3. Respondent was given 20 days to submit a written response appealing the HUD notice, and/or to request a conference. Respondent was informed that if he did not submit a written response, his removal would be effective within 20 days; and he would not be permitted to reapply for placement on the Roster until he completed Remedial Education relating to the reporting and researching of comparable sales data, and until he retook the examination on FHA appraisal methods and reporting. (Exhibit A).

4. On April 24, 2002, respondent was informed by HUD that inasmuch as he did not submit a written response to the March 4, 2002 letter, his removal from the HUD roster of appraisers was effective March 25, 2002. (Exhibit B).

CONCLUSIONS OF LAW

1. Respondent's removal from the HUD roster of appraisers for cause subjects respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(g), as respondent has had his authority to engage in real estate appraising suspended by an agency or authority, for reasons consistent with N.J.S.A. 45:1-21, grounds for suspension of any certificate, registration or license.

2. The findings underlying the action by HUD conclusively prove respondent's appraisal errors, which constitute the following violations of the Uniform Enforcement Act: violation of N.J.S.A. 45:1-21(c), gross negligence; N.J.S.A. 45:1-21(d), repeated acts of negligence; N.J.S.A. 45:1-21(e), professional misconduct pursuant to N.J.A.C. 13:40A-6.1 (USPAP violations may constitute professional misconduct).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline, suspending respondent's license as a real estate appraiser in the State of New Jersey for one year, was entered on June 11, 2002, and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or

dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

In a letter dated July 11, 2002, and received on July 16, 2002 by the Board, respondent's attorney, V. James Castiglia, indicated that respondent did not contest the terms of the Provisional Order.

This submission was reviewed by the Board, and the Board determined that further proceedings were not necessary.

THEREFORE, IT IS ON THIS 6th DAY OF August, 2002,

ORDERED:

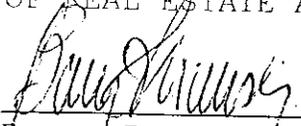
1. Respondent's license as a real estate appraiser in the State of New Jersey is hereby suspended for a period of one year.

2. Respondent's suspension is effective on August 15, 2002, and the last day of the suspension shall be on August 14, 2003.

The filing of this matter is without prejudice to the Board's ability to initiate proceedings with regard to alleged violations of law by Andrew O'Connell in unrelated matters.

NEW JERSEY STATE BOARD
OF REAL ESTATE APPRAISERS

By: _____


Barry J. Krauser
Board President