



COPY

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE REAL ESTATE APPRAISER BOARD

In the matter of:

JOSE V. COSTA, SCRREA  
Certification #42RC00144700

CONSENT ORDER

This matter was opened before the New Jersey State Real Estate Appraiser Board (the "Board") upon receipt of a complaint dated December 24, 2014 from Carter M. Crane, on behalf of Wells Fargo Bank-Residential Valuation Services ("Wells-Fargo"), alleging that respondent Jose V. Costa, SCRREA, prepared three appraisal reports for Wells Fargo which were "materially deficient, potentially misleading and contain[ed] numerous errors and omissions." The three appraisal reports were for the following properties: 1) a two-unit residential property located at 289 Conklin Avenue, Hillside, New Jersey (effective date of report August 18, 2014); 2) a two-family residential property located at 159 Beach Street, Jersey City, New Jersey (effective date of report May 22, 2014); and 3) a vacant land parcel located at 410 9<sup>th</sup> Street, Union City, New Jersey (effective date of report June 23, 2014). In addition to the appraisal reports, Wells Fargo provided the Board with three letters that were forwarded to respondent (all three letters dated September 24, 2014) addressing USPAP compliance

issues that Wells Fargo identified with each of the three reports, and respondent's written replies to each of the three letters.

In addition to the documentation supplied by Wells Fargo, the Board has obtained and reviewed written responses to the complaint that Mr. Costa provided directly to the Board (all three responses are dated January 17, 2015) and copies of the workfiles respondent maintained for each report. The Board has additionally considered testimony which respondent offered when he appeared before the Board for an investigative hearing on May 26, 2015, represented by Robert P. Lesko, Esq. (Wilson Elser Moskowitz Edelman & Dicker, LLP).

Upon review of available information, the Board found that respondent violated multiple requirements of the Uniform Standards of Professional Appraisal Practice (the "USPAP") when preparing each appraisal report. Without limitation, the Board found that respondent performed each of the three appraisal assignments in a grossly negligent manner, and communicated each of the three assignment results in a misleading manner, thereby violating the Conduct provision of the Ethics Rule in all three cases. Focusing on each report individually, the Board found the following USPAP Rule violations:

- 1) 289 Conklin Avenue, Hillside, New Jersey: The Board found that respondent violated Standards Rules 1-1(a), 1-1(b), 1-

4(a), 1-6(a), 2-1(a) and 2-1(b). Without limitation, the cited Rule violations are predicated on findings that:

-- Respondent's opinion that the market value of the subject property was \$80,000 was not supported by the analysis within the appraisal report and lacked credibility.

-- Respondent failed to detail critically important information in the report, most significantly that comparable sale #1 was a short sale.

-- Respondent failed to adequately reconcile data developed in the sales comparison approach. Specifically, when developing the sales comparison approach, respondent analyzed five properties, one of which (comparable sale #1) was a short sale, two of which (comparable sales #2 and #3) were arms-length sales and two of which were listings (comparable sales #4 and #5). Respondent reported the adjusted values of the five comparable sales and listings to be, respectively, \$73,695, \$109,380, \$112,430, \$150,950 and \$184,570.<sup>1</sup> While respondent stated in the addendum to the report that "greatest weight" was placed on comparable sale #1, he failed to thereafter sufficiently explain why his opinion of value was based almost exclusively on the adjusted value of comparable sale #1, and why higher values that may have been suggested by all

---

<sup>1</sup> Respondent made adjustments solely for reported differences in the gross building area of the analyzed properties and for differences in garage parking for two of the five comparable sales. When appearing before the Board, respondent testified that he estimated the gross building area for the subject and all comparable properties, but he failed to affirmatively state that fact in the appraisal report.

other analyzed sales were not deemed reliable or more heavily weighted in the reconciliation process.

2) 410 9<sup>th</sup> Street, Union City, New Jersey: The Board found that respondent violated the Competency Rule, Scope of Work Rule, and Standards Rules 1-1(b), 1-1 (c), 1-3(b), 1-4(a), 2-1(a) and 2-1(b) when preparing the 410 9<sup>th</sup> Street appraisal. Without limitation, the cited violations are based on findings that:

-- Respondent lacked the requisite competency to perform vacant land appraisals, and failed to either acquire necessary competency or decline the assignment.

-- Respondent failed to select appropriate comparable sales for analysis when developing the sales comparison approach, as the sales that were identified and analyzed are neither comparable to one another nor to the subject property, and have a 98% range of value in sale price from a low of \$31,500 to a high of \$2,300,000.

-- Respondent failed to adequately verify the zoning for the subject property and/or comparable sales, failed to report that the lot dimensions for the subject property were non-conforming and below the minimum lot size in Union City (and thus would have required a variance for building) and failed to conduct required due diligence to research the zoning issues (respondent neither sought to contact the property owner nor the township zoning officer to obtain relevant and necessary information).

-- Although respondent listed the highest and best use of the property as "residential," he failed to analyze the relevant legal, physical and economic factors necessary to support his determination.

-- Respondent's statement in the addendum to the report that he did "a survey of all fee simple vacant land" was false and/or misleading, as respondent instead testified that he did not check any data source beyond MLS.

-- Respondent failed to detail in the report that comparable sale #4 was a superior waterfront property with a skyline view of New York City (view noted on the report was "homes"). His subsequent adjustment of \$2,000,000 for sale #4 is inadequately explained and appears arbitrary. Respondent's failure to make any other adjustments whatsoever, for any of the other five analyzed sales (although the condition and size of the lots varied substantially), is neither logical nor adequately explained in the appraisal report.

-- Respondent made significant and material reporting errors, to include reporting the adjusted value of comparable sale #4 as "negative \$2,000,000" and the adjusted value of the five other comparable sales as "\$0". While the reported values are senseless, respondent failed to proofread the report and identify or correct the reporting errors.

-- Respondent failed to adequately reconcile the widely disparate data developed in the report, or otherwise explain his reconciliation process.

3) 159 Beach Street, Jersey City, New Jersey:

The Board found that respondent violated Standards Rules 1-1(a) and 2-1(a) when preparing the Beach Street appraisal. Without limitation, issues identified by the Board regarding the 159 Beach Street report include:

-- Respondent estimated rents for all three comparable rentals when developing the income approach, although data detailing actual rents was available in the MLS and could have been validated. Respondent failed to state in the appraisal report that the rental data was estimated, and his statement in the addendum to the report that he did a "rental survey" was false and misleading.

-- Respondent failed to disclose and comment upon the subject property's proximity to commercial properties, and failed to report that all three comparable sales were short sales in need of repair and inferior in condition to the reported condition of the subject property.

In addition to the above issues, the Board identified significant concerns regarding respondent's underlying foundation of knowledge, based on his answers to questions posed by Board members at the time of his appearance. Without limitation, respondent's testimony suggested a lack of understanding of the

requirements of USPAP's Scope of Work Rule,<sup>2</sup> of basic principles of highest and best use analysis and of the recognized methods for deriving land values. This matter is a second disciplinary action involving respondent, as he was the subject of a prior Consent Order filed on February 10, 2014 wherein he was found to have violated multiple provisions of the USPAP when preparing an appraisal report on a condominium unit in Madison, New Jersey. Respondent was formally reprimanded, assessed a civil penalty of \$3,000 and ordered to complete both a 30 hour residential sales comparison and income approach course and a 15 hour USPAP course. Despite completing those courses, it is apparent that respondent continues to prepare non-USPAP compliant reports and continues to evidence significant basic knowledge deficits.

All licensees are required, by N.J.A.C. 13:40A-6.1, to ensure that all appraisals conform to the requirements of the USPAP. Failure to comply with USPAP requirements, in turn, may be deemed to constitute professional misconduct. Based on the findings made above, the Board concludes that cause for disciplinary sanction against respondent exists pursuant to N.J.S.A. 45:1-21(c), N.J.S.A. 45:1-21(e) and N.J.S.A. 45:1-21(h). The parties desiring to resolve this matter without the need for

---

<sup>2</sup> Respondent testified that he did not seek to obtain available rental data when preparing the 159 Beach Street report because the report was a "drive-by," however USPAP's requirements for development of data in a report are not dependent on whether or not an interior inspection is performed.

further administrative proceedings, and the Board finding that good cause exists for the entry of the within Order,

IT IS on this <sup>19<sup>th</sup></sup>~~17<sup>th</sup>~~ day of February, 2016

ORDERED and AGREED:

1. The Certification of respondent Jose Costa to practice real estate appraising is hereby suspended for a minimum period of six months, commencing on the date of entry of this Order. In the event respondent's Certification is thereafter reinstated, he shall at such time be placed on "probation" for a period of one year.

2. Respondent may petition the Board for the entry of a supplemental Order terminating the period of suspension and allowing him to resume the practice of real estate appraising on "probation," on or after August 17, 2016. Any such petition shall be granted, provided that respondent demonstrates that he has complied with all of the terms of this Order applicable to him during the period of suspension, to specifically include successful completion of all coursework required within paragraph 6 below.

3. Respondent shall be required, while on "probation," to practice in a manner consistent with all statutes and regulations governing the practice of real estate appraising in New Jersey, and to maintain a log of all appraisal reports completed. Respondent shall provide the log to the Board for review six months after the period of probation commences and at the conclusion of

probation (i.e., at the end of the one year term of probation), and shall provide copies of appraisal reports identified on the log to the Board for review on request.

4. Respondent is assessed a civil monetary penalty in the amount of \$5,000, payment of which shall be deferred until such time as Respondent's license is reinstated and the one year period of "probation" commences. During the period of "probation," Respondent shall be required to make twelve payments of \$416.67, the first of which shall be due not later than thirty days after his Certification is reinstated, and the remainder of which shall be due monthly thereafter. In the event respondent fails to make required payments during the period of "probation," that failure shall be deemed to constitute a violation of the terms of "probation," and shall constitute grounds upon which the Board may then enter an Order rescinding "probation" and immediately reinstating the suspension of respondent's Certification.

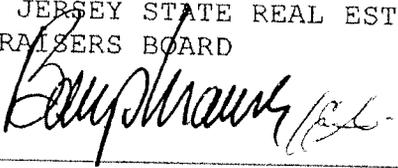
5. Respondent is assessed costs, limited to transcript costs, in the amount of \$722.75, which costs shall be due and payable in full at the time of entry of this Order.

6. Respondent shall be required, during the period of time that his Certification is suspended, to successfully complete the entirety of the 200 hours of coursework designated as "Required Core Curriculum" to qualify as a Certified Residential Appraiser, set forth within the Real Property Appraisal Qualifications

Criteria of the Appraisal Qualifications Board effective January 1, 2015. Respondent shall secure the required education only in courses that are presently approved by the Board for qualifying education, and shall be required to ensure that documentation of his successful completion of all required course work is provided to the Board by any and all course providers.

NEW JERSEY STATE REAL ESTATE  
APPRAISERS BOARD

By:

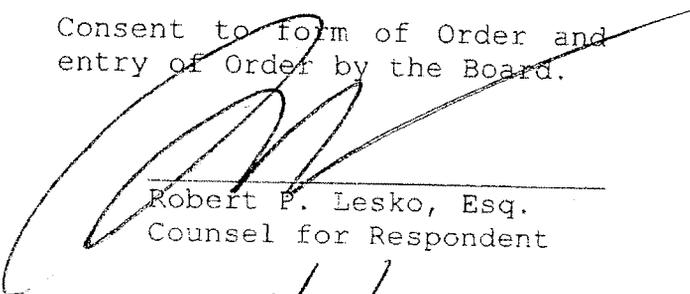
  
Barry J. Krauser  
Board President

I represent that I have carefully read and considered this Order, and consent to the entry of the Order by the Board.

  
Jose V. Costa, SCRREA

Dated: 02/05/2016

Consent to form of Order and entry of Order by the Board.

  
Robert P. Lesko, Esq.  
Counsel for Respondent

Dated: 2/11/16