

BEFORE THE NEW MEXICO REAL ESTATE APPRAISERS BOARD

In the Matter of:

CORRINE GARCIA
License No. 2109-R
Respondent.

Case No. 6, 10-03-16

DECISION AND ORDER

THIS MATTER came before a quorum of the Real Estate Appraisers Board ("Board") during their meeting on January 13, 2012 for deliberation and decision in the above referenced case.

The Board, having thoroughly familiarized itself with the record of the proceedings, including the testimony of the witnesses, the exhibits admitted into evidence at the hearing, and the Hearing Officer's report, adopts the following findings of fact, reaches the following conclusions of law, and renders this decision and order.

FINDINGS OF FACT

Based on the evidence presented at the hearing, the Board, by a unanimous vote adopts the Hearing Officer's Findings of Fact in their entirety.

CONCLUSIONS OF LAW

Based on the findings of fact, the Board, by a unanimous vote adopts the Hearing Officer's Conclusions of Law in their entirety.

The evidence presented is sufficient to prove by a preponderance that Respondent shall be sanctioned for her failure to respond to the Board within time frame specified.

ORDER

Based on the Findings of Fact and Conclusions of Law, the Board votes in the affirmative and renders this Decision and Order:

IT IS ORDERED that Respondent shall:

1. Be given a written reprimand for her actions. Such reprimand shall be reported to the disciplinary database.
2. Respondent should be required to pay a fine of \$1,000 within 60 days of entry of this Order.
3. Respondent should also be required to pay the costs of her hearing. The cost of the hearing is determined by the Board to be \$133.94

FOR THE NEW MEXICO
REAL ESTATE APPRAISERS BOARD

A handwritten signature in black ink, appearing to be "L. J. ...", is written over a horizontal line.

DATE: 2/14/12

BEFORE THE NEW MEXICO REAL ESTATE APPRAISERS BOARD

In the Matter of:

CORRINE GARCIA
License No. 2109-R
Respondent.

Case No. 6, 10-03-16

HEARING OFFICER'S REPORT

THIS MATTER came before the duly appointed Hearing Officer Dean Zantow on November 17, 2011 in Albuquerque, New Mexico. Assistant Attorney General Tania Maestas was present to advise the hearing officer. Respondent appeared in person, *pro se*. The State appeared through its Administrative Prosecutor, David Tourek, Esq.

The Hearing Officer finds as follows:

FINDINGS OF FACT

Based upon either exhibits or facts entered through testimony at hearing, the Hearing Officer hereby submits the following findings of fact:

1. Respondent, Ms. Corrine Garcia, is licensed by the Board of Real Estate Appraisers ("Board").
2. A complaint was received by the Board on March 16, 2010, alleging that that Respondent was paid to conduct a walk through appraisal, however never completed the appraisal.
3. On March 19, 2010, the Board sent Respondent a certified letter to her Post Office Box, advising her of the complaint. The March 19th letter also requested a written response within ten (10) calendar days of receipt.

4. After two notices, the March 19th letter was returned to the Board by the postal service as undeliverable.
5. Respondent testified that the Post Office Box was an incorrect address.
6. On April 7, 2010, the Board again attempted to sent Respondent a certified letter, this time to a Copper Avenue address, advising her of the complaint and also requesting a written response within ten (10) calendar days of receipt.
7. Again, the letter was returned to the Board by the postal service as unclaimed.
8. Respondent testified that she was out of town during the month of April, thus did not receive the notice to pick up the certified letter until April 30, 2010.
9. Respondent further testified that when she learned of a pending letter, she called the Board and asked that the letter be resent.
10. On April 7, 2010, the Board again sent Respondent a certified letter to the Copper Avenue address, advising her of the complaint. The April 7th letter also requested a written response within ten (10) calendar days of receipt.
11. Again, the letter was returned to the Board by the postal service as unclaimed.
12. On May 4, 2010, Respondent sent the Board an email, advising the Compliance Liaison that she "did not have time to stand in line for 45-60 minutes at the post office" and requested that the letter be resent.
13. On May 11, 2010, the Board again sent Respondent a certified letter to the Copper Avenue address, advising her of the complaint and requesting a written response within ten (10) calendar days of receipt.
14. This was the fourth time the same letter had been sent out; the third time it had been sent out the Copper Avenue address.

15. All letters required a response and stated, "Your response shall include all documentation relevant to this complaint."
16. Respondent received the letter from the post office and acknowledged receipt.
17. On May 18, 2010, Respondent walked-in a response to the complaint to the Board office in Santa Fe. (Ex. 2, Attachment 9). The response stated that the Respondent completed the appraisal and delivered it to the lender.
18. On June 18, 2010, the complaint committee reviewed the complaint and the response. The complaint committee recommended tabling the matter, pending further investigation. The complaint committee further requested a copy of the Respondent's appraisal.
19. Only July 1, 2010, the Board, during their regularly schedule meeting, tabled the matter for further investigation.
20. Only July 27, 2010, the Board sent Respondent a letter, advising her that the matter had been tabled for further investigation and requesting that Respondent send copies of the "complete work file, all related documents, records, addenda and appraisal reports."
21. The July 27th letter was sent to the incorrect address. Respondent's address is 11604 Copper Avenue; letter was sent to 1106 Copper Avenue.
22. The letter was returned to the Board as unable to forward.
23. On August 9, 2010, the Board called the Respondent to verify her mailing address.
24. On August 11, 2010, the Board resent Respondent the letter, advising her that the matter had been tabled for further investigation and requesting that Respondent

send copies of the “complete work file, all related documents, records, addenda and appraisal reports.”

25. Respondent received and acknowledged the August 11th letter.
26. Respondent testified that “some time in mid-August,” she mailed a copy of her work file to the Board.
27. Compliance Liaison Deloisa Trujillo testified that she never received a copy of Respondent’s work file.
28. As such on October 7, 2010, the Board sent Respondent a second letter, again requesting that Respondent send copies of the “complete work file, all related documents, records, addenda and appraisal reports.”
29. Respondent received the letter.
30. Respondent testified that she then took a copy of her work file into the Board’s Santa Fe office. She states that she left it in a manila envelope with the Compliance Liaison’s name on it. She testified that she was not required to sign-in, nor was she given a receipt or confirmation for delivery of the documents.
31. Respondent further testified that during a prior telephone conversation with the Compliance Liaison, she was told that once the work file had been delivered, the complaint would be dropped.
32. Compliance Liaison Trujillo testified that she never received a copy of the work file and that neither she nor anyone at the Board office would have ever told Respondent that a complaint would be dropped by producing required documents.

33. On December 2, 2010, the Board sent Respondent a third and Final Request, requiring the Respondent to send copies of the “complete work file, all related documents, records, addenda and appraisal reports.”
34. The third and final notice was sent to the proper Copper Avenue address, however it was returned as unclaimed.
35. Respondent testified that she was out of town during the month of December and because no was checking the mail, she never received a notice to claim the December 2nd letter.
36. As such, on August 19, 2011, the Board issued a Notice of Contemplated Action for failure to respond to the Board’s requests.
37. Respondent testified that she never follow-up or questioned the matter because she thought the complaint had been dismissed when she took the work file up to Santa Fe.
38. Respondent has no prior discipline on behalf of the Board.

CONCLUSIONS OF LAW

Based on the findings of fact, the Hearing Officer hereby reaches the following conclusions of law:

1. Respondent, Corrine Garcia is a licensed appraiser (License No. 2109-R) and is subject to the jurisdiction of the Board pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -33; the New Mexico Real Estate Appraisers Act, NMSA 1978, Sections 61-30-1 to -24; and the New Mexico Real Estate Appraisers Board Rules and Regulations, Title 16, Chapter 65, NMAC.

2. Section 61-30-15(A) of the Real Estate Appraisers Act provides in relevant part that in accordance with procedures contained in the Uniform Licensing Act [§§ 61-1-1 to -31, NMSA 1978], the board “shall refuse to issue or renew a registration, license or certificate and shall suspend or revoke a registration, license or certificate at any time when the applicant, state apprentice real estate appraiser, state licensed real estate appraiser or state certified real estate appraiser, in performing or attempting to perform any of the actions set forth in the Real Estate Appraisers Act, is determined by the board to have:

(6) willfully disregarded or violated any of the provisions of the Real Estate Appraisers Act or the rules of the board adopted pursuant to that act.

3. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent willfully failed to respond to at least two Board letters, specifically those dated July 27, 2010 and August 11, 2010, in which she was directed to provide specific documentation to the a complaint filed against her. Respondent’s conduct constitutes violation of the Real Estate Appraisers Act, NMSA 1978, § 61-30-15(A)(6).

4. Real Estate Appraisers Board Rule 16.62.13.10(A) NMAC states that “upon receipt of a sworn complaint against any person who is an apprentice, licensed or certified under the real estate appraisers act, the respondent must respond within ten (10) days of receipt as allowed by the uniform licensing act.”

5. Real Estate Appraisers Board Rule 16.62.13.10(B) NMAC states, "Failure to respond within time frame specified, may result in disciplinary action up to and including revocation of licenses at the discretion of the board."
6. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent violated Board rules when she failed to respond to at least two Board letters, specifically those dated July 27, 2010 and August 11, 2010, in which she was directed to provide specific documentation to the a complaint filed against her. Respondent's conduct constitutes violation of the Real Estate Appraisers Act, NMSA 1978, § 61-30-15(A)(6).

HEARING OFFICER'S RECCOMENDATIONS

1. The Hearing Officer finds that Respondent should be given a written reprimand for her actions. Such reprimand shall be reported to the disciplinary database.
2. Respondent should be required to pay a fine of \$1,000 within 60 days of entry of this Order.
3. Respondent should also be required to pay the costs of her hearing; an amount to be determined by the Board. \$133.94

Respectfully Submitted,

DEAN ZANTOW
Hearing Officer

I hereby certify that a true and correct copy of the foregoing Order was sent to the following parties of record on this 10TH Day of January 2012:

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