

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF COLORADO

Complaint No. 80356603

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE REAL ESTATE APPRAISER'S LICENSE OF OULAYVANH THONGMANY, LICENSE NO. CR40030446, Respondent.

IT IS HEREBY STIPULATED by and between the Colorado Board of Real Estate Appraisers (the "Board") and Oulayvanh Thongmany, (the "Respondent"), as follows:

1. At all times relevant hereto, the Respondent was a licensed real estate appraiser in the state of Colorado.
2. The Board has jurisdiction over the Respondent and the subject matter of this action.
3. The Board commenced an investigation of Respondent's activities.
4. The Board notified Respondent of the complaint and of the investigation and provided to Respondent copies of the complaint and investigative report concerning Respondent's appraisal and appraisal reporting of the property located at 7873 Acoma Court, Larkspur, CO ("the property") and offered Respondent the opportunity to give written data, views and arguments concerning the complaint, investigation and investigative report.
5. The Board considered the investigative report regarding Respondent's appraisal and the appraisal reporting of the property, and found reasonable grounds exist to refer Respondent to hearing for violations of appraisal law. The Board authorized the preparation of this Stipulation and Final Agency Order, including the disciplinary terms set forth herein, as means to settle and resolve this matter.
6. Respondent admits the following:
 - a. The Respondent conducted an appraisal at 7873 Acoma Court, Larkspur, Colorado ("subject property") on March 13, 2006.

b. Respondent failed to identify water damage that had occurred to the subject property and analyze its effect on the value of the property, thereby making an error of omission which had a significant effect on the credibility of the appraisal report. Respondent therefore failed to comply with USPAP Standards Rule 1-1(b) with respect to the subject property.

c. Respondent failed to identify the pertinent physical attributes of the subject property, namely the water damage, and therefore violated USPAP Standards Rule 1-2(e).

7. The Respondent accepts the following discipline:

a. Respondent hereby relinquishes the license and the right to practice as a real estate appraiser. Such relinquishment shall have full force and effect as a revocation ordered by the Board. Such revocation shall be effective immediately upon execution of this Stipulation and Final Agency Order by an authorized representative of the Board. Respondent tenders her license simultaneously with execution of this document, and any registration(s), license(s), certificate(s) and/or pocket card(s) of Respondent. On and after the effective date of this Stipulation and Final Agency Order, Respondent shall not engage in any act requiring a real estate appraiser license as set forth in §12-61-702, C.R.S. The Commission reserves the right, notwithstanding the provisions of paragraph 9 below, to review the allegations and/or charges raised by the investigation which is identified in paragraph 4 above should Respondent ever apply for any license issued by the Board.

8. It is the intent and purpose of this Stipulation and Final Agency Order to provide for the settlement of the particular issues, allegations and, or, charges raised by the investigation of the Respondent's activities by the Board as set forth above and in the investigative report.

9. The Board expressly reserves the right to proceed with a subsequent disciplinary action in the event that the Respondent fails to comply with the terms of the Stipulation and Final Agency Order;

10. Upon execution by all parties, this Stipulation and Final Agency Order shall represent the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

11. Respondent expressly agrees and acknowledges that she has entered into this Stipulation knowingly and voluntarily. After the opportunity to consult with legal counsel, Respondent affirms that she has read this Stipulation and fully understands its nature, meaning and content. Respondent agrees that upon execution of this Stipulation

and Final Agency Order, she shall not pursue or maintain any subsequent action or assertion in which she asserts in any manner the invalidity of this Stipulation.

12. Respondent knowingly and voluntarily waives the following rights:

a. The right to a formal disciplinary hearing on the merits of the matters forming the basis of this Stipulation and Final Agency Order and the right to require the Board to meet its burden of proof in a formal hearing.

b. The right to confront and cross-examine all witnesses against Respondent at a formal hearing.

c. The right to subpoena witnesses, present evidence and to testify on Respondent's behalf at a formal hearing.

d. The right to be represented by counsel of Respondent's own choosing and at Respondent's expense at any stage of this proceeding.

e. The right to engage in pre-hearing discovery of the Board's evidence.

f. The right to appeal the Final Agency Order provided for by this Stipulation.

13. Upon execution of this Stipulation by an authorized representative of the Board, the Board shall file a motion to dismiss the case now pending before the Board and the Office of Administrative Courts entitled *Colorado Board of Real Estate Appraisers v. Oulayvanh Thongmany*, with prejudice.


14. On the date upon which this Stipulation is executed by an authorized representative of the Board, it shall become the Final Agency Order of the Board.

RESPONDENT



Ouluyvanh Thongmany
10732 E. Exposition Ave., #220
Aurora, CO 80012

COLORADO BOARD OF REAL ESTATE
APPRAISERS

By: 

ERIN TOLL, Director, or Designee
1560 Broadway, Suite
Denver, Colorado 80202

Effective Date: This 7th day of April,
2009.

APPROVED AS TO FORM:

JOHN W. SUTHERS
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