

**BEFORE THE NEW MEXICO REAL ESTATE APPRAISERS BOARD**

**In the Matter of:**

LAURA B. RILEY  
License No. 1082-G

Respondent.

Case No. 13, 09-03-31(A) Tract 11  
Case No. 14, 09-03-31(A) Tract 13  
Case No. 15, 09-03-31(A) Tract 15  
Case No. 16, 09-03-31(A) Tract 17

**HEARING OFFICER'S REPORT**

**THIS MATTER** came before the duly appointed Hearing Officer John Barber on December 5, 2011 in Albuquerque, New Mexico. Assistant Attorney General Tania Maestas was present to advise the hearing officer. Respondent appeared in person and through her counsel, Bridget Jacober, Esq. The State appeared through its Administrative Prosecutor, Phyllis H. Bowman, Esq.

The following exhibits were admitted into the record:

- 1: Notice of Contemplated Action was admitted;
- 2A: Respondent Appraisal of Tract 11;
- 2B: Respondent Appraisal of Tract 13;
- 2C: Respondent Appraisal of Tract 15;
- 2D: Respondent Appraisal of Tract 17;
- 3A: Miller Appraisal Review Report of Tract 11;
- 3B: Miller Appraisal Review Report of Tract 13;
- 3C: Miller Appraisal Review Report of Tract 15
- 3D: Miller Appraisal Review Report of Tract 17;
- 4: Miller's Resume;
- 5: Originating Complaint Form;
- 6: Respondent's Response to Complaint (with all attachments);
- A: John Howden's Qualifications of the Appraiser;
- B: Respondent Letter to Richard Silva dated April 15, 2009.

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. Laura Riley, has been licensed by the Board of Real Estate Appraisers (“Board”) to practice as a General Certified Appraiser since 1994.
2. Respondent testified that she has appraised property since 1987. Respondent stated that she had worked at the NM State Land Office from 1987-1990 and was a supervisor from 1990-1994.
3. Respondent also testified that she has taught basic appraisal courses at San Juan Community College.
4. A complaint against Respondent was filed and received on March 31, 2009. (Exhibit 5 - Bates stamp 110-118)
5. Respondent has no prior discipline on behalf of the Board and this was the first complaint ever filed against Respondent.
6. The complaint encompassed four separate appraisals which are the basis of this matter.
7. On October 20, 2008, Respondent prepared and conveyed/communicated four separate real estate appraisals for the following properties:
  - (1) Prepared for Chad & Catherine McCall an appraisal of Tract 11, South Corona Ranch, Corona, NM. (Exhibit 2A) This property is 140.02+/- deed acres known as Tract 11 of S. Corona Ranch located approximately 6 miles southwest of Corona, NM in Lincoln County. Located East of US Hwy 54, Eastern boundary being approximately 5,000 feet from US Hwy 54. (Bate Stamp 00399) Respondent’s appraised value of the Tract 11 was \$490,000
  - (2) Prepared for Kyla McCall an appraisal of Tract 13, South Corona Ranch, Corona, NM. (Exhibit 2B) This property is 140.18+/- deeded acres known as Tract 13 of S. Corona Ranch located approx.. 6 mi southwest of Corona, NM

in Lincoln County Located East of US Hwy 54, Eastern boundary being approximately 3,000 feet from US Hwy 54. (Bate Stamp 00517) Respondent's appraised value of the Tract 13 was \$490,600

(3) Prepared for D.McCall an appraisal of Tract 15, South Corona Ranch, Corona, NM. (Exhibit 2C) This property is 140.6+/- deeded acres known as Tract 15 of S. Corona Ranch located approximately 6 miles southwest of Corona, NM in Lincoln County 00633. Located East of US Hwy 54, Eastern boundary being approximately 1,200 feet from US Hwy 54. (Bate stamp 00633) Respondent's appraised value of the Tract 15 was \$492,000

(4) Prepared for Rio Grande Alameda L.P.(General party is D. McCall) an appraisal of Tract 17, South Corona Ranch, Corona, NM. (Exhibit 2D) This property is 140.06+/- deeded acres known as Tract 17 of South Corona Ranch located approximately 6 miles southwest of Corona, NM in Lincoln County. Located adjacent to Hwy 54, with Eastern boundaries adjacent to Hwy 54. (Bate stamp 00749) Respondent's appraised value of the Tract 17 was \$490,000

8. The complaint stated in summary that Respondent's appraisals were not sufficiently supported by the market data used in the report and that the appraisals included a selection and use of unnecessary and inappropriate sales from a grossly expanded area, as well as inappropriate adjustments.
9. On April 23, 2009, Ms. Riley submitted a response to the complaint. (Exhibit 6 - Bate stamp 00265-393)
10. Based upon a review of the information received, the Board notified Respondent on August 24, 2009 that it had voted to issue a Notice of Contemplated Action against her.
11. On February 1, 2011, the Board issued a Notice of Contemplated Action to Respondent.
12. In response to the Notice of Contemplated Action, Respondent requested a hearing in this matter.

13. A hearing was held on December 5, 2011 at Regulation and Licensing Department, CID Conference Room located at 5200 Oakland Ave., Albuquerque, New Mexico before the Honorable John Barber.
14. Hearing Officer Barber stated for the record that he had 42 years of experience as a real estate appraiser and 31 years of experience serving as a municipal judge.
- 15.** As a pre-hearing matter, Respondent's Counsel raised a Motion to Dismiss the Notice of Contemplated Action, filed and responded to before Hearing. Respondent argued four points: 1. The "complaint" failed to state a claim; 2. No damages were pled; 3. No first-hand knowledge was used in the complaint, and that the case was stale causing a failure of due process and prejudiced Respondent's defense. No evidentiary hearing was held to support the due process or prejudicial claim.
- 16.** The State argued that under the Uniform Licensing Act, the presiding body of statutory law over the process of administrative proceedings did not require a "complaint" of the nature described by Respondent to be filed and that she was referring to the wrong body of law and wrong process, that she was equating this administrative process to a civil plaintiff's case governed by the rules of civil procedure, and therefore all of her arguments for the Motion to Dismiss were irrelevant and unsupported by law or the Uniform Licensing Act.
17. The Hearing Officer took the matter under advisement, for an opportunity to review the Motion to Dismiss, Respondent's Memorandum in Support of Motion to Dismiss, and the State's Response in Opposition to Respondent's Memorandum in Support of Motion to Dismiss NCA

18. At hearing, both the Respondent and the Peer Reviewer testified in detail as to Exhibits 2A-D, the Uniform Residential Appraisal Reports and the alleged errors contained within.
19. Mr. Miller testified telephonically, under oath. He stated that he had testified as an expert prior to this proceeding in district court, both federal and state, and in administrative hearings.
20. Mr. Miller testified that he conducted 4 peer reviews of Respondent's 4 appraisals as identified as Exhibit 2A-D in accordance with USAP.
21. He also stated that as part of the basis of his report, he reviewed the complaint and Respondent's response to the complaint.
22. Mr. Miller testified that he documented his findings, conclusion and opinions in his Reports, Exhibits 3A-D (Bate stamp 00001-00024; 00025-00048; 00049-00073; 00074-00097). Mr. Miller prepared a report for each appraisal, but each was essentially the same analysis with the understanding that each appraisal was for different tracts of land, had different owners, and varied in size.
23. Respondent testified that she developed and communicated each of the appraisals, developing the same methodology for each and every one tract appraised, and that the only differences were the acreage size, ownership and distances from Hwy 54 (location).
24. Respondent testified that she disagreed with Mr. Miller's Appraisal Review Reports for all four tracts of land: Tract 11, Tract 13, Tract 15, and Tract 16.

25. Mr. Miller outlines in his report the following USPAP violations: 2 provisions of the “Conduct” section of the Ethics Rule and 8 provisions of the Standards Rules (a subtotal of 10 violations per appraisal.)
26. In summary, Mr. Miller testified and also stated within his reports “Considering the errors, commission and carelessness of the appraiser, I find this appraisal report, including the final value estimate, to be misleading, lacking in credibility and in violation of those Rules and Standards of USPAP as previously mentioned.”
27. Mr. Miller found that the Respondent lacked in understanding of certain appraisal techniques, by incorrectly developing other techniques “necessary to produce a credible” appraisal; and had omitted data that “significantly” affected the appraisal; Mr. Miller concluded that Respondent was careless and committed errors that affected the credibility of the results.
28. He also found portions of the report to be inaccurate and misleading, lacking in sufficient data analysis “to enable the intended user(s) of the appraisal to understand the report properly.”
29. Specifically, Mr. Miller testified and stated in his report that in violation of Rule 1-1, the “Regional and Neighborhood Description” portion of Respondent’s appraisal was inadequate. He found a neighborhood analysis to be completely left out of the appraisals. He stated that this is critical to the identification and selection of comparable sales. The omission of such analysis may result in the improper selection and use of inappropriate sales for direct comparison to the

subject appraisal. “The selection and use of inappropriate sales may then lead to a value estimate for the subject property lacking in credibility.”

30. Respondent stated that in reference to alleged violation of Rule 1-1, she was not negligent in her description in “neighborhood” and believed that she described it thoroughly and adequately.
31. In response to the alleged violation, Respondent points to a neighborhood analysis, labeled “area description.” rather than “neighborhood analysis.” On pages 7-13 (Bates 400-406) of the appraisal there is an area description, which describes the social, economic and governmental conditions in the Corona area, Lincoln County and surrounding counties. Respondent states that this is the neighborhood of the subject. She further states that this area is not an urban area and does not have well defined boundaries and amenities associated with a specific neighborhood.
32. Mr. Miller further testified that Standard Rule 1-1 (b and c) were also violated due to a mathematical error in the time adjustment calculation.
33. As to Rule 1-b (c), Respondent agreed that she made a math error on the time adjustment. However, that the error did not significantly affect the overall appraised value of the various tracts, being in error by only 2% in one of the many comparative sales used.
34. Respondent claims that although there was a math error, it did not significantly affect the correct range of values. Therefore, the mistake did not constitute a substantial error of negligence or omission in terms of USPAP compliance.

35. As to Rule 1-3 (b), Mr. Miller found a violation with the primary use of land. Mr. Miller testified that the “Highest and Best Use” analysis by Respondent was “confusing and misleading at best.” The appraisal was completed on a vacant land parcel, but within Respondent’s appraisal report, she would refer to the subject land as “vacant and improved.” In addition, throughout the analysis, “large rural residential home site use” was used and yet, the Respondent stated, “Therefore it is our opinion that the highest and best use of the Subject Property is for Residential/Recreational/Agricultural use as vacant and as improved.”
36. Mr. Miller stated in his report that while interim uses can be identified, only one highest use should be stated and corroborated. Mr. Miller stated that by using three different and best uses, Respondent has brought into question the credibility of the comparable sales selected for direct comparison to the subject property.
37. Respondent disagreed that she was confined to defining the primary use of land to one use. She felt that limiting the land to one use was an inadequate description.
38. Respondent stated that the subject property is one in an area which many uses are compatible and utilized within one property. Most properties, which are similar to the subject, are home sites that are used for agricultural and recreational uses. This use constitutes a single use, more specific than the three uses independent of each other.
39. Respondent further states that in the discussion of the “Highest and Best Use” in the appraisal report, she discusses the difference between the properties as large ranch units, versus the smaller recreation/residential/agricultural use. Respondent states that she based her analysis that the property had some

improvements on the existence of governmental approvals and allowances attendant to separating the parcels into smaller tracts.

40. Respondent stated that she did not prepare the appraisals for the purpose of a conservation easement, but for market value or fee simple value, as stated in the scope of work and that Respondent did not know the status of the any of the tract owners' attempts to obtain conservation easements through appraised land values.

41. Respondent claims that the report adequately defined and discussed the highest and best use of the subject and that Mr. Miller substituted his judgment for that of the Respondent in terms of the extent of the discussion that he would have included.

42. Under "Site and Improvement Descriptions," Mr. Miller stated that the site description was minimal at best and that Respondent only mentioned the possibility that the tract would be divided in the future later in her Response Letter (Exhibit 6), but not within the Respondent's appraisal.

43. Mr. Miller reported and testified that Standards 1-4(a) were violated based on his opinion that Respondent's comparables were not adequate. Mr. Miller testified and stated in his report that the omission of sales from the Windmill Ranch Subdivision was questionable; that despite the reasons given by the Respondent for exclusion, she could have made adjustments as she did for other comparative property sales.

44. Mr. Miller testified that since Windmill Ranch is the most proximate and offered a number of fairly recent sales, presenting these sales for analysis would have been the proper procedure. Mr. Miller further testified that by analyzing some of

the differences and arriving at “cash equivalent” could have supported her analysis of Sales 1 & 2. This omission is “careless and negligent” and questions the credibility of the appraisal report, including the value estimates developed therein.

45. Respondent disagreed that she used incorrect comparative property sales and stated instead that this was not a residential neighborhood.
46. Respondent testified that one of the primary reasons she did not use comparables from the Windmill Ranch subdivision was because aesthetically, the Windmill Ranch properties were not as pleasing. The appraised tracts were next to the national forest, had tree cover and rolling terrain, while the Windmill Ranch subdivision had juniper trees, savannah-like ground, and were covered with mostly chollo cactus. She also stated that she did not use Windmill Ranch subdivision properties as comparables was because she did not have access to their real estate contract sales, believed the sales were skewed to the seller, and was unable to substantiate the source of water.
47. Alternatively, Respondent states that she discussed the Windmill Ranch as a comparable on page 28 (Bates 421) of her report and then subsequently rejected Windmill Ranch based on her knowledge of its geographic location and attributes, lack of comparability of physical characteristics, lack of availability of utilities, including the lack of water.
48. Respondent testified that her primary reason for exclusion was that the subject property has a commitment to municipal water versus the questionable water available at Windmill Ranch.

49. She stated that she had done a field review and completed an analysis of the surrounding properties, while Mr. Miller did not. Respondent criticized the fact that Mr. Miller did not perform a field review, did not interview any buyers and sellers and did not see the subject property or the comparables.
- 50.** Mr. Miller testified that he did not visit the appraised properties because his peer review was limited to a desk review. He stated that he had conducted appraisals on property in the area, but that he didn't recall when or where. Mr. Miller further testified that he did contact some persons to obtain background and relevant information, but that he did not rely or use information contained in the complaint, nor did he incorporate the information neither from either the Complainant nor from any other individual identified in connection with the complaint.
51. Mr. Miller stated that inclusion of the Gran Quivera sales, outside of Lincoln County, was not an appropriate comparable.
52. Respondent rebutted that in terms of location, Gran Quivera is within 30-35 miles, while Windmill Ranch is about 18-20 mile from the subject.
53. Mr. Miller also stated within his report that the exclusion/omission of a third potential sale from Respondent's development was not justified. While in her Response, she explained that this was not an "arm's length transaction," this was not explained in her original appraisal report, and it should have been.
- 54.** Mr. Miller testified and stated in his report that in terms of size adjustment, Sale 4 is so significantly larger than the subject that is not a valid comparable. He testified that when the size of the property is so large, then one must examine the

market demand and the economics for such property to evaluate whether it is a valid competitive alternative sale. In Miller's opinion this sale was not a valid alternative comparable sale and should not have been used.

- 55.** Within his report, Mr. Miller explains how improper analysis was completed in reference to Sales 1 & 2. That because the terms of the real estate contract do not require a "down payment," and the interest rate is below "market rate," (information obtained from Farm Credit of New Mexico) the sales cannot be analyzed for "market value," therefore a cash equivalent adjustment must be made. Using this analysis, Miller explained how the cash equivalent adjustment to Sales 1 & 2 would result in a downward adjustment of \$45,000. Again, Miller states how had Respondent used the Windmill Ranch subdivision property sales it would have "provided support and credibility" to her conclusions.
- 56.** Mr. Miller further testified that in violation of Standards 2-1(a and b) and 2-2, Respondent's report is not clear and is misleading. Mr. Miller concludes that the summary of information and reasoning as set forth in the appraisal is inadequate.
- 57.** Mr. Miller testified and stated in his report that Respondent's appraisal report was not accurate and was misleading, as explained earlier due to "significant errors of omission, carelessness, lack of knowledge and understanding in developing and applying a time adjustment, and the lack of support of other adjustments, which in turn has combined for significant adjustment errors to the comparable sales. Due to these errors and omissions, the conclusions of the appraiser are misleading and lack credibility."

58. Respondent stated that she had Mary Malloy, a certified USPAP instructor, review the report. Respondent stated that while Mr. Malloy had made recommendations, which she accepted and incorporated into her appraisals, none of these factors were identified as unclear or misleading to him.
59. Mr. Miller testified and stated in his report that the “Reconciliation” was adequate, but minimal. However, because the Respondent’s analysis was careless, lacking in knowledge and understanding, lacking in support, and omitted significant detail, the entire analysis is misleading and lacks credibility, and therefore the reconciliation is misleading and lacks credibility.
60. Mr. Miller testified and stated in his report that the analysis of comparable sales and adjustment was minimally adequate, but because the analysis was so careless, lacking in knowledge and understanding, lacking in support, omitting significant data that the analysis was misleading, lacks credibility, and therefore the reconciliation is also misleading and not credible.
61. Mr. Miller testified and stated in his report how the “Approaches to Value” or “Land Value Estimate” were inadequate, and highlighting the “carelessness; insufficient support and/or lack of support of adjustments; and lack of knowledge and understanding with respect to developing a time adjustment and omissions of data.”
62. Mr. Miller testified and stated in his report that the Selection of sales was improperly developed, so that there was no support for her neighborhood analysis and no justification for the statement “all of the foregoing sales are located in competing similar areas.” As a result some of the comparable sales at a

significant distance from the subject in is question and may not been appropriate. Lack of “support and justification” lead to questions about the credibility and comparability of the sales selected for direct comparison by the Respondent. Mr. Miller stated that there was no justification that the comparables were competitive alternative sales.

**63.** Mr. Miller testified and stated in his report that because there was no quantitative documentation to support a water adjustment within the report, the adjustment for this lacks credibility.

**64.** Mr. Miller testified and stated in his report that size adjustment made by Respondent in Sales 13-40 was not supported. While Miller agreed that the size differed significantly, he was unable to duplicate Respondent’s analysis to support a negative \$4,000/acre adjustment. Based upon the Respondent’s information provided, it is implied that size is the only significant different, in absence of other adjustments for other characteristics. Mr. Miller explained how if adjustment is made for these sales, then the same analysis should have been applied to Sales 1 and 2.

**65.** Mr. Miller testified and stated in his report that also in terms of size, Sale 11 should have been adjusted for size.

**66.** Mr. Miller testified and stated in his report there was carelessness in the adjustment calculations completed by Respondent in terms of access based upon the information given by the Respondent. Sale 5 was improperly adjusted for access.

67. Mr. Miller testified and stated in his report that Respondent only referenced one pairing in support of an adjustment of \$1,500, which is an insufficient number of pairings to producing a credible adjustment. Mr. Miller gave instances that based upon the Respondent's comments within her report how such a pairing analysis should have been completed. Miller stated how he accepted the Respondent's bracketed adjustments of pairing in her data set, even though the adjustment was a little low.

### **CONCLUSIONS OF LAW**

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

1. Respondent, Laura B. Riley is a licensed appraiser (License No. 1082-G) 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(B) 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 board determines that the applicant or state apprentice real estate appraiser, state licensed real estate appraiser or state certified real estate appraiser, in the performance of real estate appraisal work, has:

- (1) Repeatedly failed to observe one or more of the standards or the development or communication of real estate appraisals set for in the rules adopted pursuant to the Real Estate Appraisal's Act;
- (2) Repeatedly failed or refused, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal; or
- (3) Repeatedly been negligent or incompetent in developing an appraisal, in preparing an appraisal report or in communicating an appraisal.
- (4) Repeatedly failed or refused, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisals;
- (5) Repeatedly been negligent or incompetent in developing an appraisal, in preparing an appraisal report or in communicating an appraisal.

NMSA 1978.

3. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent made numerous errors and/or contradictions in the reports. Respondent's conduct constitutes violation of the Real Estate Appraisers Act, NMSA 1978, § 61-30-15(B).
4. The Administrative Prosecutor proved by a preponderance of the evidence in the record that there was insufficient and/or lack of support (documentation) for some to the adjustments made to the comparable sales. Respondent's conduct constitutes violation of the Real Estate Appraisers Act, NMSA 1978, § 61-30-15(B).
5. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent's reports were not clear, not accurate, and were misleading due to the significant errors and omissions, carelessness, lack of knowledge and understanding in developing and applying time adjustment, and the lack of support of other adjustments, combined with significant adjustment errors to the comparable sales. Due to all of these errors and omission, the

- conclusions of the Respondent are misleading and lack credibility. As such, Respondent's conduct constitutes violation of the Real Estate Appraisers Act, NMSA 1978, § 61-30-15(B).
6. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent's errors and/or contradictions in the reports were made carelessly and negligently. Respondent's conduct constitutes violation of the Real Estate Appraisers Act, NMSA 1978, § 61-30-15(B).
  7. Section 61-30-16(A) of the Real Estate Appraisers Act provides in relevant part that "each state apprentice real estate appraiser, state licensed real estate appraiser or state certified real estate appraiser shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal foundation and adopted by rule pursuant to provisions of the Real Estate Appraisers Act." NMSA 1978.
  8. The National Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated by the appraisal standards board of the appraisal foundation and adopted and incorporated by reference as the minimum requirements for which an appraisal, analysis or opinion is communicated. Real Estate Appraisers Board Rules 16.62.1.8 NMAC; 16.62.1.7(X) NMAC.
  9. USPAP Competency Rule of USPAP(2) states that "Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser

must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently, or alternatively, must:

- (b) Take all steps necessary or appropriate to complete the assignment competently

10. USPAP Ethics Rule on Conduct, Management, Confidentiality & Record Keeping

state the following:

- a. An appraiser must perform assignments ethically and competently, in accordance with USPAP.
- b. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.
- c. An appraiser must not advocate the cause or interest of any party or issue.
- d. An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.
- e. An appraiser must not communicate assignment results in a misleading or fraudulent manner.
- f. An appraiser must use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

11. USPAP Standards Rule 1-1 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;
- b. not commit a substantial error of omission or commission that significantly affects appraisal; and
- 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 affect the credibility of those results.

12. USPAP Standards Rule 1-3 states: When necessary for credible assignment results in

developing a market value opinion, an appraiser must:

- (b) develop an opinion of the highest and best use of real estate

13. USPAP Standards Rule 1-4 states: 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
14. USPAP Standard Rule 2-1 states: 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; and
  - (c) Clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment
15. USPAP Standard Rule 2-2 states: Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.
- (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.
16. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent's Uniform Appraisal Report did not meet the minimum requirements of the standards of professional practice. Respondent's conduct

constitutes violation of Real Estate Appraisers Act, NMSA 1978, § 61-30-16 and the Real Estate Appraisers Board Rule 16.62.1.8 NMAC.

17. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent unjustifiably made numerous errors, omissions and contradictions within the reports. Respondent's conduct constitutes violation of Real Estate Appraisers Act, NMSA 1978, § 61-30-16 and the Real Estate Appraisers Board Rule 16.62.1.8 NMAC.
18. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent rendered appraisal services in a careless or negligent manner, such as by making a series of errors that significantly affected the results of the appraisals. Respondent's conduct constitutes violation of Real Estate Appraisers Act, NMSA 1978, § 61-30-16 and the Real Estate Appraisers Board Rule 16.62.1.8 NMAC.
19. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent's reports were confusing and misleading. Respondent's conduct constitutes violation of Real Estate Appraisers Act, NMSA 1978, § 61-30-16 and the Real Estate Appraisers Board Rule 16.62.1.8 NMAC.
20. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent failed to summarize the information analyzed or the appraisal methods and techniques employed or the reasoning that supports the analyses, opinions, and conclusions or why the inclusion or exclusion of the sales comparison approach, cost approach, or income approach, which rendered the appraisal report to lack credibility. Respondent's conduct constitutes violation of Real Estate Appraisers

Act, NMSA 1978, § 61-30-16 and the Real Estate Appraisers Board Rule 16.62.1.8 NMAC.

21. The Administrative Prosecutor proved by a preponderance of the evidence in the record that Respondent's appraisal reports violated the Competency Rule (2), Ethics Rule on conduct and Standards Rules 1-1 (a), (b) and (c), 1-3 (b), 1-4 (a), 2-1 (a), (b) and (c), and 2-2 (b) of USPAP. Respondent's conduct constitutes violation of the Real Estate Appraisers Act, NMSA 1978, § 61-30-16 and the Real Estate Appraisers Board Rule 16.62.1.8 NMAC.

#### **HEARING OFFICER'S RECCOMENDATIONS**

1. In reference to the pre-hearing Motion to Dismiss, the Hearing Officer hereby finds that the Motion is not supported by substantial evidence, nor does the Motion present valid legal support. As such, the Motion to Dismiss NCA shall herein be denied.
2. The Hearing Officer finds that Respondent should be required to take and successfully pass 30 hours of *classroom* courses, with none of the hours counting toward continuing education. Fourteen (14) of these hours shall be in course directed towards the sales comparison approach.
3. Respondent should be required to pay a fine of \$1,000 within 60 days of entry of this Order.
4. Respondent should also be required to pay the costs of her hearing; an amount to be determined by the Board.

Respectfully Submitted,

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JOHN BARBER  
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 4<sup>TH</sup> Day of January 2012:

Phyllis Bowman, Assistant General Counsel  
NM Real Estate Appraisers Board  
Regulation and Licensing Department  
2550 Cerrillos Road  
Santa Fe, NM 87505

Bridgett Jacober, Esq.  
Counsel for Respondent Laura Riley  
128 Grant Ave., St. 215  
Santa Fe, NM 87501

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Kelly Storie, Paralegal  
Regulation and Licensing Department