

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
ORDER : FINAL DECISION AND
KEVIN P. WALSH, : LS0208284APP
RESPONDENT. :

Division of Enforcement Case File No. 99 APP 034

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

Kevin P. Walsh
5371 West Lawrence
Chicago, IL 60630

Division of Business Licensure & Regulation
Real Estate Appraisers Board
PO Box 8935
Madison, WI 53708 8935

Department of Regulation and Licensing
Division of Enforcement
PO Box 89365
Madison, WI 53708 8935

The parties in this matter agree to the terms and condition of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Kevin P. Walsh (date of birth: September 14, 1969) is licensed by the Real Estate Appraisers Board (Board) as a Licensed Appraiser in the state of Wisconsin (License #1168). The license was first granted on January 11, 1999.
2. Respondent's last address reported to the Department of Regulation and Licensing is 5371 West Lawrence, Chicago, IL 60630.
3. In August 1999, Respondent Walsh performed an appraisal of a residential property located in Milwaukee, Wisconsin. The purpose for the appraisal was for refinancing. The subject appraisal was ordered by FICUS Financial, which was unable to refinance the transaction, then the owners went to Amresco Residential Mortgage Corporation (Amresco). Amresco initially requested a filed review report of the subject property, but because FICUS refused to release an original appraisal report to it, Amresco later requested and "interior inspection" (Actual appraisal) of the subject property.
4. The appraiser chosen to do the subject appraisal went to the subject property to perform the subject appraisal, and noted a leaky roof and many other problems.
5. The subject appraiser filed a complaint with the Department, complaining that there were numerous mistakes on Respondents' appraisal report and that conditions of the site and dwelling were substantially misrepresented.
6. Complainant complained that Respondent's appraiser report listed the subject home as having a "Full basement, when it actually was a small partial +/- 780 sf. under the original part of the home with a crawl space under an addition to the home; that the property was listed as having 2 full bathrooms, when there was only one (1) full bath and a room with a whirlpool tub in it, which room was unfinished, with a plywood floor, with some unfinished walls. Some had drywall up unpainted, with one wall completely unfinished - bare to the stud. There were no commode or sink installed; The floor plan/room count grid list 2 bedrooms on the first floor, but there is only one. There is no "nebulous" room that might be considered by some as a bedroom. There is only one (1) room that could possibly be a bedroom.
7. The subject appraisal report failed to note that, in various places inside the subject property, there were either unpainted drywalls, section of unfinished walls or ceiling where changes to the floor plan were started but could not be completed; floor covering - when there were any - need to be replaced, yet were listed as being in average condition; The other bathroom needs some routine maintenance work; the site has no grass, and it mostly just dirt. The property has not seen routine maintenance and is in need of repair:
8. The appraiser has rated this property average throughout the report, with no mention of projects in progress, and no consideration on the market grid for condition. This property is not in average condition for the age, location and price range. The appraised value is excessive; The appraiser's adjustment for the lack of a garage is not supported in this market place. The property has both a functional and potential marketing problem from the lack of a garage alone, not to mention the condition.
9. Not disclosing that the roof leaks sure looks like an intent to defraud the lender ... while field reviews (exterior drive bys) have been instituted to help lenders avoid loaning on properties improperly evaluated, a field review would not have saved a lender from loaning on this property because, the majority of the problems were on the inside, were not visible from the street, and are not disclosed in the report.

10. Respondent failed to include in his subject appraisal report whether or not he had conducted an on site inspection of the real estate for which the appraisal report was prepared, a statement that the appraiser has not done so; even though Respondent indicates in his responses to the Department that he had actually inspected the subject property.

11. Pursuant to the investigation of the matters, the case advisor assigned to the complaint – who is also the city assessor of Milwaukee – had a staff member of her office go out and personally reviewed the interior of the subject property in 2002, who concluded in pertinent part that:

“The date of the subject appraisal was August of 1999, so some conditions of the property had changed. However, most were in conformance with the Complainant’s opinions. Specifically, the property was in fair, not average condition: Pet orders were obvious, and some exterior maintenance items had been deferred. The main difference inside was the mostly finished bath (that was previously a bedroom). The original bath was noted as usable, but barely. From the assessor’s perspective, if we had known the condition and circumstances of this property for our 1998 revaluation, the property would have been valued in the \$75,000 range according to my calculations. So, the value given by the Respondent at \$95,000 seems a bit excessive.”

12. The case advisor concluded that Respondent had violated USPAP’s:

a. Standards Rule 1-1(a)(b). 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 affect the appraisal.

(“The fact that the property is in poorer condition than what is typical in the neighborhood certainly affects the subject marketability. The errors in description and the ultimate choice and adjustments made to the comps. to reflect the subject lead to an overstated value estimate”)

b. Standards Rule 1-4(b)(III): In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines, when applicable:

(b) Collect, verify, analyze, and reconcile:

(III) Such comparable sales data, adequately identified and described, as are available to identify a value conclusion.

(“Again, the inadequate description and lack of appropriate adjustments do not lead the reader or user of the appraisal report to a reasonable value conclusion, but instead to a value conclusion that is overstated.”)

c. Standards Rule 2 1(b): Each written or oral or written appraisal report must:

- (b) Contain sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly (Departure from this binding requirement is not permitted).

("The information concerning the subject property is not correct. Specifically, the unfinished bath, the condition of the finished bath, the pet odor and general condition of the property are misstated. This makes the report misleading.")

d. Standards Rule 2 3 (... He did not consider the condition of the property within its market).

13. Accordingly, based upon the above-enumerated violations, Respondent is also deemed to have violated secs. 458.26(3)(b) (c), Wis. Stats.: (b) engaged in unprofessional or unethical conduct ..., and (c) engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles or skills; violated secs. RL 86.01(1) (2),(5), Wis. Adm. Code: (1) & (2), All appraisals shall confirm to USPAP, and (5). ... Appraisers shall not knowingly omit, understate, misrepresent or conceal material facts in their appraisals; and violated sec. 458.19(1), Wis. Stats., Requirements for appraisal reports. (1) If an appraiser has not conducted an on site inspection of the real estate for which the appraisal report is prepared, a statement that the appraiser has not done so.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Respondent's license as a licensed appraiser is hereby suspended for one (1) calendar month, commencing effectively one (1) month following the adoption of the Stipulation by the Board; that the Respondent shall pay the amount of \$750.00 costs, which shall be paid within ten (10) days from the effective date of this Order; and take and successfully complete 15 hours of USPAP education which shall not count or be credited towards Respondents required continuing education, and shall be completed within three (3) months of the effective date of this Order.

On or before the effective date of the Board's Order, Respondent Walsh shall submit all original real estate appraiser's license/certificates previously issued to him, to the attention of the Department's monitor:

Marlene Meyer

Monitor

Division of Enforcement

P.O. Box 8935

Madison, WI 53708 8935

The \$750.00 costs shall be payable by cashier's check or money order made payable to the Department of Regulation and Licensing, and submitted to the Attention of the Department's Monitor, supra (indicate the case # and word "Costs" on check/money order)

If Respondent should fail to take and complete the education as ordered, or fails to get a written extension from the Board (via Department's Monitor) to complete same, then he shall be considered to be in violation of the Board's Order, and he may be subjected to further discipline.

This Order shall become effective upon the date of its signing.

By: LaMarr Franklin
On Behalf of the Board

8-28-02

Date