

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: FINAL DECISION AND ORDER  
STUART CAIRNS, :  
RESPONDENT. : LS0610189APP

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Division of Enforcement Case No. 05 APP 051

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Stuart Cairns  
17 Arial Circle  
Madison, WI 53719

Wisconsin Real Estate Appraisers Board  
P.O. Box 8935  
Madison, WI 53708

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Real Estate Appraisers Board (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 and Conclusions of Law and Order:

FINDINGS OF FACT

1. **Stuart Cairns**, (DOB 07/05/64), is a duly licensed appraiser in the state of Wisconsin having license # 4-1583, which was first granted on 06/23/03.

2. Mr. Cairns' most recent address on file with the Wisconsin Department of Regulation and Licensing is 17 Arial Dr., Madison, WI 53719.

3. On or about September 29, 2004, Mr. Cairns prepared a written appraisal report on behalf of a mortgage lender for property located at W8150 Dunning Rd., Pardeeville, WI. The appraisal showed a market value of \$152,500.

4. Sometime in August 2005, the owners of the property contacted a real estate broker about listing their home. The home owners showed Mr. Cairns' appraisal to the real estate broker. This copy of Mr. Cairns' appraisal contained an

estimated value of \$150,500

(not \$152,500). The real estate broker expressed an opinion that the appraisal was \$50,500.00 too high. Subsequently, the home owners forwarded Mr. Cairns' appraisal to the Department of Regulation and Licensing.

5. Mr. Cairns was asked by the Department to respond to the complaint by sending a copy of his work file. Mr. Cairns sent a copy of his appraisal (with an estimated value of \$152,500) but no work file.

6. The appraisal for the W8150 Dunning Rd., Pardeeville property was reviewed by the Department and it was determined that the appraisal did not meet the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

USPAP, Standards Rule 1-1 (b) (c)

“not commit a substantial error of omission or commission”

“not render appraisal services in a careless or negligent manner”

USPAP, Standards Rule 1-2 (a) (e) (g) (h)

“identify the client and other intended users”

“identify the characteristics of the property”

- report does not provide the correct legal description
- report does not provide the correct lot size/acreage
- subject age, as reported, does not appear to be correct based on house style and stone foundation (typically 90-120 yrs.)
- zoning is multi-family, not residential
- stone basement is 50% of what?
- appraised value is \$50,000 over last sale; however, no recent improvements, renovations or additions are identified – per report, “Subject is average quality”

USPAP Standards Rule 1-3 (a) (b)

“identify and analyze the effect on use and value existing land use regulations”

“develop an opinion of the highest and best use

- subject is zoned multi-family, could the highest & best use be multi-family?

USPAP Standards Rule 1-5 (a)

“analyze all agreements of sale, options, listings of subject property”

- per Register of Deeds, the property had transferred 4/16/2003 via WD (not land contract) – USPAP requires a 3-year sale/listing history for the subject – page # 2 of the report indicates that “neither the Subject nor any of the Comparables have sold during the past 12 months”

Based on the errors and omissions cited above, violations of the Competency Rule also apply.

Comment:

Competency applies to factors such as, but not limited to, an appraiser's familiarity with a specific type of property, a market, a geographic area, or an analytical method.

- dollar amounts used in the Cost Approach are excessive for this age/type of property
- land value is excessive for .96 acre lot served by well & septic
- comparable sales selected are all located on (town?) lots which are served by municipal sewer & water – not comparable if any well & septic properties were available as potential comps
- condition for all comparables appears to be superior to the subject based on MLS descriptions of updates & remodeling – no conditional adjustment was made
- Sale #3 has 62' of lake frontage and a separate guest house – these features are not addressed in the report – not comparable

- minimal grid adjustments were made for lack of any garage

Record Keeping (Ethics Rule):

An appraiser must prepare a workfile for each appraisal... The workfile must include... true copies of any written reports.”

- The report that accompanied the complaint and the report submitted by the respondent have two different values.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. sec. 458.26, and is authorized to enter in the attached Stipulation pursuant to Wis. Stat. sec. 227.44 (5).

2. The conduct described above in paragraph 6 constitutes a violation of:

- a. USPAP Standards Rule 1-1b Substantial Error of Omission;
- b. USPAP Standards Rule 1-1c Services in a Careless or Negligent manner;
- c. USPAP Standards Rule 1-2a Client and Intended User(s);
- d. USPAP Standards Rule 1-2e, Property Characteristics;
- e. USPAP Standards Rule 1-2g, Extraordinary Assumptions;
- f. USPAP Standards Rule 1-2h, Hypothetical Condition;
- g. USPAP Standards Rule 1-3a, Land Use Regulations;
- h. USPAP Standards Rule 1-3b, Opinion of Use;
- i. USPAP Standards Rule 1-5a, Analyze All Agreements of Sale;

3. As a result of the above violations, respondent is deemed to have also violated Wis. Stat. § 458.26(3)(c), by engaging in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principals or skills.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent **Stuart Cairns**, within one year of the date of this Order, successfully **complete 30-40 hours of Department approved education regarding appraisals of rural residential or transitional properties (RUR-RES, ASFMRA course, if offered), comparable sale selection, and the application of the Cost Approach. An Appraisal Institute course (such as Advanced Sales Comparison & Cost Approaches or Residential Market Analysis & Highest & Best Use) or college level course should be completed.**

2. Respondent shall submit proof of the same in the form of verification from the institution providing the education to the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

3. Respondent **Stuart Cairns'** appraiser license (#4-1583) shall be LIMITED for a period of at least one (1)

year commencing ten (10) days from the date of this Order as follows:

a. Respondent shall be limited to the performance of residential appraisals within Dane County only; and

b. Respondent shall not provide any supervisory services or assistance for an appraisal completed by anyone other than him.

c. Respondent shall not rely on any trainee, clerical staff and/or office assistant to provide research assistance.

d. Respondent shall maintain a work file for every appraisal that includes a hard copy of the assignment from the lender, that adequately documents the listing or sales history for the subject property, and that includes a survey map or plat map of the subject property and a true copy of the report.

4. Respondent may submit a written request to the Board to remove the limitations on his license after the one year period has expired. The request shall be accompanied by an affidavit from the Respondent that he has complied with the limitations, and a list of the appraisals completed during the period of limitation. Prior to granting the request, the Board or Department may request further information and documentation from the Respondent, including copies of appraisal reports and work files. The Board may approve or deny the request.

5. Respondent **Stuart Cairns** shall, within 60 days of the date of this Order, pay **COSTS** of this proceeding in the amount of \$350.00.

6. Proof of successful class completion, payment of costs (made payable to the Wisconsin Department of Regulation and Licensing), and any request for removal of the limitations, shall be mailed, faxed or delivered to the Department Monitor at this address:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 261-7904, Fax (608) 266-2264

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit any payment of the forfeiture and/or costs as set forth above, fails to complete the education as ordered or fails to submit monthly reports, Respondent's license # 4-1583 SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

8. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: Mark P. Kowbel  
A Member of the Board

10-18-2006  
Date