

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	:	FINAL DECISION
	:	AND ORDER
ROYDEN E. TULL,	:	LS0310152APP
RESPONDENT.	:	

Division of Enforcement Case No. 98 APP 026

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

Royden E. Tull
424 New Castle Way
Madison, WI 53704

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

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

The parties in these matters agree to the terms and conditions of the attached Stipulation as the final decision of these matters, subject to the approval of the Real Estate Appraisers Board (Board). The Board has reviewed the stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Royden E. Tull (Tull) of 424 New Castle Way, Madison, WI., was at all time material to the Complaint, issued a Certificate of Licensure, and a Certificate of Certification as a Certified Residential Appraiser (# 639-9), and has been so licensed/certified under the provisions of ch. 458, Wis. Stats., since April 13, 1993.

2. The subject Complaint was filed with the Department by the Federal Deposit Insurance Corporation (FDIC), Division of Supervision, which complaint alleged in pertinent part that:

"Pursuant to requirements of Section 1119(c) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, I hereby advise you that an examination of Farmers State Bank, 726 Water Avenue, Hillsboro, Wisconsin on March 23, 1998 disclosed an action of an appraiser, Roy Tull, State Certification #639, that may be contrary to the purpose of the title. The state certified residential appraiser appears not to have complied with the Uniform Standards of Professional Appraisal Practice (USPAP) numbers 1 and 2. In addition, it appears Mr. Tull may have exceeded certification limitations in preparing the appraisals described below.

Mr. Tull prepared two separate property appraisals on developed lots and vacant land in the same location. These properties are owned by a developer, and the appraisals were ordered by the developer for the bank. The appraisals only include direct sales comparisons of lots or vacant land owned by the same developer (or its affiliate); however, the appraisals do not disclose this limited pool. The short estimated marketing periods do not appear reasonable for the subject lots. The appraiser does not explain the differences in market value adjustments; instead, he uses the same comparable properties in each appraisal. Additionally, the appraiser does not prepare a discounted cash flow analysis of the developed properties. Both of the appraisals prepared by Mr. Tull exceeded \$250,000."

3. Pursuant to the investigation into the matters, the Department hired a Certified General Appraiser expert, with MAI and SRA designations from the Appraisal Institute, and previous chairperson and member of the Appraiser Qualification Board of the Appraisal Foundation to review the subject complaint, along with all subject appraisal reports and documentation for reviews for compliance or non-compliance with USPAP, and Wisconsin's appraisal related laws.

CONCLUSIONS OF LAW

1. The Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to sec. 458.26, Wis. Stats.

2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. The expert's report is attached hereto as Exhibit A.

4. Respondent does not admit that he has violated any of the following statutes or regulations but has entered into the attached stipulation for purposes of settlement:

a. s. 485.16 (1), Stats. Use of Certificate Number and Title.

b. s. 458.26 (3) (b)-(c), (i), Stats.:

(b) Engaged in unprofessional or unethical conduct in violation of rules promulgated under sec. 458.24.

(c) Engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles or skills.

(i) Violated this chapter or any rule promulgated under this chapter.

c. sec. RL 81.04 (2), Wis. Adm. Code. Scope of Appraisal Practice.

(2) Certified Residential Appraiser. A Certified Residential Appraiser may conduct appraisals of residential real estate without regard to transaction value and commercial real estate having a transaction value of not more than \$250,000.

d. sec. RL 86.01(1)-(3), (5) (6), Wis. Adm. Code:

(1) Certified and licensed appraisers shall comply with the standards of practice established by ch. 458, Stats., and chs. RL 82 to 86 and the standards set forth in Appendix 1 (USPAP).

(2) All appraisals performed in conjunction with federal related transactions and non federal related transactions shall conform to the uniform standards of professional appraisal practice.

(3) A certified residential appraiser shall not use the title "Wisconsin certified residential appraiser" or "WI certified residential appraiser" on any appraisal report or written appraisal agreement pertaining to commercial real estate having a transaction value of more than \$250,000.

(5) Certified and licensed appraisers shall not knowingly omit, understate, misrepresent or conceal material facts in their appraisals.

(6) A certified or licensed appraiser shall not offer to perform nor perform, services which he or she is not competent to perform through education or experience.

e. "Conduct" of the Ethic provisions of USPAP:

Conduct

An appraiser must perform ethically and competently in accordance with the standards and not engage in conduct that is unlawful, unethical, or improper. An appraiser who could reasonably be perceived to act as a disinterested third party in rendering an unbiased appraisal, review, or consulting service must perform assignments with impartiality, objectivity, and independence and without accommodation of personal interest.

For purposes of settlement, the parties agree to the following order:

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Respondent Royden E. Tull shall pay a forfeiture in the amount of \$3,000.00, and shall pay experts fees of \$1,021.25; and his Certificate of Licensure, and Certificate of Certification as a certified residential appraiser are limited to precluding his performing commercial real estate and residential tract development projects appraisals for a minimal period of one (1) calendar year (e.g., rural vacant lots/undeveloped tracts/vacant lots in subdivisions/parcels of land being improved and subdivided into lots for sale, all regarding the type of subject appraisals which are the subjects of the subject complaint), unless working under the supervision of a Certified General Appraiser.

(See generally "Statement On appraisal Standard No. 10 (SMT 10)).

Additionally, Respondent is prohibited from performing commercial appraisals (The types which are the subjects of the subjects complaints) for American Investment Company, Secluded Land Company, LLC, or Thousand Lake Realty, and or for any of their affiliates or subsidiaries, until/unless he is granted such permission from the Board.

2. Further, Respondent shall take and successfully complete a minimum of seven (7) hours of USPAP department's approved education relating to performing commercial real estate and residential tract development projects appraisals (see paragraph #1 supra), which shall not count or be credited toward his required continuing education.

3. On or before the expiration of the one (1) calendar year, and prior to the lifting of limitations on Respondent's Certificate of Licensure, and Certificate of Certification as a certified residential appraiser, he must petition the Board and demonstrate to the Board's satisfaction that he is capable of practicing as a Certified Residential Appraiser in a manner that safeguard the interest of the public; and demonstrate competency to perform the subject appraisals which are the subject of the complaints, which competency can be demonstrated in part by working under the supervision of a Certified General Appraiser while performing such appraisals.

4. If Respondent performs such appraisals under the supervision of a Certified General Appraiser, then a roster of such appraisals performed by Respondent under the supervision of a Certified General Appraiser, shall be provided to the Department Monitor – hereinafter – for a selection of a random sample of three or more appraisal reports for compliance reviews of USPAP; along with a letter from the supervising appraiser, that in his/her opinion, Respondent is competent to independently perform such appraisals.

5. If, after the Board or its designee reviews appraisals performed by Respondent under the supervision of a Certified General Appraiser, it is determined that his appraisals are not per USPAP, then Respondent's limitations on his certifications as a certified residential appraiser may be ordered to remain limited, or the Board may impose other limitations, and/or order any other remedial action it deems appropriate.

6. If the Board or its designee concludes that Respondent's subject appraisals complies with USPAP, and lifts the subject limitations and/or allows him to independently commence doing the subject types of appraisals, if Respondent commences doing the subject type of appraisals independently, he shall submit the first three appraisal products to the Department Monitor at the time of completing the appraisal reports, for USPAP's compliance reviews.

7. If, after Respondent commences doing the subject type of appraisals independently, the Board determines his appraisals are not per USPAP, then Respondent's license as a licensed appraiser may be permanently limited regarding the subject type of appraisal; or the Board may take other appropriate disciplinary

action.

8. Any failures to comply with the terms of the Stipulation and the Board's Order are grounds for further discipline.

9. No later than 10 days after the effective date of the Board's Order, Respondent shall submit his Certificate of Licensure, and Certificate of Certification as a certified residential appraiser issued to him to the Department Monitor, at which time he will be issued a limited license consistent with the terms of the Order (The effective date of the Board's Order is the date of signing the Final Decision and Order by the Board's chairperson or his designee).

Monitor

Division of Enforcement

P.O. Box 8935

Madison, WI 53708 8935

10. The payments of the \$1,021.25 expert's fees (costs), and \$3,000.00 forfeiture shall be payable by cashier's check or money order made payable to the Department of Regulation and Licensing, and submitted to the Department's Monitor, supra, and shall be paid within three (3) months of the effective date of the Board's Order adopting the stipulation agreement (place case #98 APP 026 on check or money order and words "forfeiture," and "costs" per separate payments.)

11. If Respondent shall fail to pay the expert's fees or forfeitures, or to take and successfully complete the seven (7) hours of USPAP as ordered, or fails to obtain a written extension from the Board to pay or complete same, then he shall be considered to be in violation of the Board's Order and may be subjected to further discipline.

a. The Department of Regulation and Licensing, pursuant to sec. 458.26(5), Wis. Stats., reserves the right to appeal the Board's Final Decision and Order.

REAL ESTATE APPRAISERS BOARD

By: La Marr Franklin

10-15-03

On behalf of the Board

Date