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IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
THOMAS J. NOVAK, :
RESPONDENT. : LS0805212APP

Division of Enforcement Case No. 07 APP 003

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

Thomas J. Novak
718 100th Avenue
Amery, WI 54001

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. **Thomas J. Novak** (D.O.B. 11/03/63) holds Wisconsin appraiser license # 4-1722, which was first granted on 01/26/04 and is current through 12/14/09.
2. Mr. Novak's most recent address on file with the Wisconsin Department of Regulation and Licensing is 718 100th Avenue, Amery, WI 54001.
3. In 2006, Mr. Novak submitted an application to the Department to become a Certified Residential Appraiser. As part of the application process, Mr. Novak submitted three appraisals that were reviewed by the Department. Review of those three appraisals demonstrated that Mr. Novak's appraisals failed to be in compliance with the Uniform Standards of Professional Appraisal Practice in effect at the time the appraisals were completed, and the Department denied Mr. Novak's application.
4. The matter was referred to the Division of Enforcement for disciplinary action against his appraiser license in light of Mr. Novak's appraisals failing to comply with USPAP.
5. Mr. Novak's appraisals were reviewed by the Department and a Real Estate Appraiser Board Member acting as a case advisor, and were found to be in violation of USPAP as detailed below.

COUNT 1—Appraisal of Property at 125 State Road 48, Cumberland, WI

6. On or about November 14, 2005, Mr. Novak completed an appraisal for property located at 125 State Road 48, Cumberland, WI 54829. The appraisal showed a market value of \$53,000.
7. This appraisal was reviewed by the Department and a member of the Real Estate Appraisers Board acting as a case advisor, and it was determined that the appraisal violated the 2005 Uniform Standards of Professional Appraisal Practice (USPAP) in the following respects:
 - a. Standards Rule 1-4(a), sales comparison approach and Standards Rule 2-2(b)(ix) by making errors in the analysis of comparable sales data and failing to provide adequate reasoning for adjustments, analyses, opinions and conclusions in the following ways: failing to adjust for seller concessions per the MLS sheet for Sale 1; failing to mention or adjust for the fact that Sale 1 is located adjacent to County forest lands, has a new well and septic and a pole shed; by reporting Sale 3 as having 1 bathroom, when the listing for this property identifies 2 bathrooms; and by failing to provide reasoning for the lack of adjustments for the fact that Sale 4 is a HUD foreclosure that sold \$6,026 above the listed price indicating potential concessions. There is no reasoning provided for the lack of adjustments, and adjusting for these features would tend to lower the overall value of the subject property resulting in an inflated value estimate.
 - b. Standards Rule 2-2(b)(i) by failing to identify the client and intended user;
 - c. Standards Rule 2-2(b)(ix) by failing to provide the type and definition of value and the value source;
 - d. Standards Rule 2-2(b)(xii) by failing to provide a Scope of Work sufficient to summarize the level of work used to develop the appraisal; and
 - e. Standards Rules 1-1(a), b, c) by rendering services in a careless or negligent manner, such as by making a series of errors identified above that in the aggregate affects the credibility of the results of the appraisal and by failing to provide adequate reasoning for adjustments, analysis, opinions and conclusions.

8. On or about September 13, 2005, Mr. Novak completed an appraisal for property located at 561 95th Street, Amery, WI 54001. The appraisal showed a market value of \$143,000.
9. This appraisal was reviewed by the Department and a member of the Real Estate Appraisers Board acting as a case advisor, and it was determined that the appraisal violated the 2005 Uniform Standards of Professional Appraisal Practice (USPAP) in the following respects:
- a. Standards Rule 1-4(a), sales comparison approach and Standards Rule 2-2(b)(ix) by making errors in the analysis of comparable sales data and failing to provide adequate reasoning for adjustments, analyses, opinions and conclusions in the following ways: for Sale 2, the MLS data sheet indicates that it is located across the road from the Apple River, contains a detached garage, a woodstove, and a barn and pole shed, yet none of these features is indicated in the grid or adjusted; Sale 3 contains 8 acres according to the MLS and grid, yet Mr. Novak fails to adjust for the difference in site size as was done for Sale 1; the Sale 1 adjustment indicates a downward adjustment of \$9,300 should be made to the sale (\$1000 ÷ .3 acre difference = \$3,333/acre x 2.8 acre difference); Sale 3 is adjusted upward \$3,000 for garage/carport, when it has a double detached garage similar to the subject.
 - b. Standards Rule 2-2(b)(i) by failing to identify the client and intended user;
 - c. Standards Rule 2-2(b)(x) by failing to provide the type and definition of value and the value source;
 - d. Standards Rule 2-2(b)(vii) by failing to provide a Scope of Work sufficient to summarize the level of work used to develop the appraisal; and
 - e. Standards Rules 1-1(a, b, c) by rendering services in a careless or negligent manner, such as by making a series of errors identified above that in the aggregate affects the credibility of the results of the appraisal and by failing to provide adequate reasoning for adjustments, analysis, opinions and conclusions.
- COUNT III—Appraisal of Property at 2078 270th Street, Deer Park, WI 54007
10. On or about July 15, 2005, Mr. Novak completed an appraisal for property located at 2078 270th Street, Deer Park, WI 54007. The appraisal showed a market value of \$237,000.
11. This appraisal was reviewed by the Department and a member of the Real Estate Appraisers Board acting as a case advisor, and it was determined that the appraisal violated the 2005 Uniform Standards of Professional Appraisal Practice (USPAP) in the following respects:
- a. Standards Rule 1-4(a), sales comparison approach and Standards Rule 2-2(b)(ix) by making errors in the analysis of comparable sales data and failing to provide adequate reasoning for adjustments, analyses, opinions and conclusions in the following ways: for Sale 1, the MLS data sheet indicates that it contains a pond and had seller concessions of \$4,660 paid, yet no adjustment for these items is indicated in the grid; there is no reasoning or support for the adjustments made such as how a property with an effective age of 10 (Sale 1) can have an adjustment of \$1,600/year, while a sale with an effective age of 20 (Sale 3) has an adjustment of \$1,333/year; Sale 2 contains an adjustment of \$1,300 per acre for the difference in acreage, yet sales of 40 acre sites in the market area according to reliable sources indicate that land is selling for \$2.00 per acre and up, depending upon topography and coverage.
 - b. Standards Rule 2-2(b)(i) by failing to identify the client and intended user;
 - c. Standards Rule 2-2(b)(ix) by failing to provide the type and definition of value and the value source;
 - d. Standards Rule 2-2(b)(vii) by failing to provide a Scope of Work sufficient to summarize the level of work used to develop the appraisal; and
 - e. Standards Rules 1-1(a, b, c) by rendering services in a careless or negligent manner, such as by making a series of errors identified above that in the aggregate affects the credibility of the results of the appraisal, by failing to provide adequate reasoning for adjustments, analysis, opinions and conclusions, and by using the wrong appraisal form for completion of an appraisal report for the owner of the property which creates a misleading report.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26, and is authorized to enter in the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. The conduct described above in paragraphs 6-11 constitutes a violation of:
- a. 2005 USPAP Standards Rule 1-1(a,b,c), developing an appraisal;
 - b. 2005 USPAP Standards Rule 1-4(a), sales comparison approach;
 - b. 2005 USPAP Standards Rule 2-2(b)(i), client and intended users;
 - c. 2005 USPAP Standards Rule 2-2(b)(v), type and definition of value;
 - d. 2005 USPAP Standards Rule 2-2(b)(vii), scope of work; and
 - e. 2005 USPAP Standards Rule 2-2(b)(ix), reasoning that supports analyses, opinions and conclusions.
3. As a result of the above USPAP violations, Mr. Novak is deemed to have also violated Wis. Admin. Code § 86.01(2), thereby subjecting himself to discipline pursuant to Wis. Admin. Code § 86.01(1) and Wis. Stat. § 458.26(3)(b) and (c).

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1.

The certificate of licensure of Respondent **Thomas J. Novak**, license # 4-1722, is hereby **LIMITED** as follows:

a.

Respondent Thomas J. Novak shall, within one year of the date of this Order, successfully complete one of the following courses offered by the Appraisal Institute, or another similar course pre-approved by the Board, at his own expense, including taking and passing the exam offered for the course:

1.

"Basic Appraisal Principles" (30 hours plus exam); **IL**

2.

"Basic Appraisal Procedures" (30 hours plus exam); **IL**

3.

"Residential Sales Comparison and Income Approaches" (30 hours plus exam).

b.

Mr. Novak 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, or for continuing education in any other state in which Mr. Novak holds a license or certification, and may also not be used in future attempts to upgrade his credential in Wisconsin. This educational requirement limitation shall be lifted upon the Department Monitor's receipt of the full verification of Mr. Novak's successful completion of the required education.
2.

Thomas J. Novak shall, within 90 days of the date of this Order, pay **COSTS** of this matter in the amount of \$ 850.00.
3.

Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Regulation and Licensing) 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

4.

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 costs as set forth above or fails to complete the education as ordered, or is otherwise in violation of this order, Mr. Novak's license # 4-1722 SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

5.

This Order is effective on the date of its signing.
- WISCONSIN REAL ESTATE APPRAISERS BOARD
- by:

Marla Britton

A Member of the Board

52108

Date