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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE
APPLICATION FOR A LICENSE TO
PRACTICE AS A REAL ESTATE
APPRAISER OF

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FINAL DECISION
AND ORDER
LS0710251APP

JOSE (PEPE) HURTADO,
APPLICANT.

Division of Enforcement Case No. 07APP 121

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 22nd day of October, 2008.

Celia M. Jackson, Secretary
Department of Regulation and Licensing

IN THE MATTER OF
THE APPLICATION FOR
A LICENSE TO PRACTICE AS
A REAL ESTATE APPRAISER OF

**PROPOSED FINAL
DECISION AND ORDER**

JOSE (PEPE) HURTADO,

CASE No.LS-0710251-APP

APPLICANT.

(Division of Enforcement Case No. 07 APP 121)

PARTIES

The parties in this matter under § 227.44, Stats., and for the purposes of review under § 227. 53, Stats., are:

Jose (Pepe) Hurtado
1781 West Street
P.O. Box 823
Lake Geneva, WI 53147

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

Department of Regulation and Licensing
Division of Enforcement
John Schweitzer, Prosecuting Attorney
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

This matter was commenced by the filing of a Notice of Hearing on October 23, 2007. A Class 1 hearing was held in this matter on June 11, 2008. Atty. John Nicolas Schweitzer appeared on behalf of the Department of Regulation and Licensing ("Department"). The applicant, Mr. Jose (Pepe) Hurtado appeared in person without legal counsel. Colleen Baird served as the Administrative Law Judge ("ALJ").

Based upon the record herein, it hereby recommended that the Department adopt as its Final Decision and Order in this matter, the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. The applicant, Mr. Hurtado, originally applied to the Department for certification as a Certified 'General' Appraiser on or about April 19, 2005.
2. Subsequent to the date of the filing of his application, Mr. Hurtado's application was changed with his approval to an

application for certification as a Certified Residential Appraiser.

3. By letter dated March 30, 2005, Mr. Hurtado was provided with a copy of the application for a Certified Residential Appraiser and notified that he was required to submit evidence of 2,500 hours of qualifying experience to obtain the certification.
4. The Department records show that Mr. Hurtado's application for a Certified Residential Appraiser was incomplete as of May 3, 2005, because he did not submit evidence of the required hours of qualifying experience.
5. Mr. Hurtado's application file contained information which indicated that he had been employed from September 1975 to January 1986, by the Wisconsin Department of Revenue (DOR) as a Property Assessment Specialist.
6. Mr. Hurtado informed the Department that he was not able to verify his hours of work or provide a log of appraisals that he performed in his former position at the DOR because the records were no longer available.
7. On June 29, 2007, the Department informed Mr. Hurtado that if he had no further evidence of his work experience his application would be evaluated on the basis of what was contained in his application file.
8. On August 27, 2007, the Department issued a Notice of Intent to Deny to Mr. Hurtado with a final request that he provide a log of his appraisals but that if he failed to submit such information, his application would be denied after 45 days.
9. Mr. Hurtado did not provide a log of his appraisals and instead, on October 4, 2007, sent a letter to the Department requesting a hearing on the Department's denial of his application.
10. At his hearing, Mr. Hurtado testified on his own behalf and presented the testimony of Mr. Dave Dueholm, a former co-worker at DOR.
11. Mr. Dueholm testified that from 1975 through 1978, he and Mr. Hurtado performed mass appraisals for "70.75" appeals; petitions from taxpayers challenging the valuation of their property by a local assessor.
12. According to Mr. Dueholm a majority of the appeals came from rural townships so a sizeable portion of the tax base was agricultural property with a relatively small portion involving commercial property.
13. Mr. Dueholm was unable to testify as to the number of actual appraisal hours experience obtained by Mr. Hurtado.
14. Mr. Dueholm's professional contact with Mr. Hurtado ended when he left the state agency and went into private practice in 1979.
15. Mr. Hurtado testified that he believed he has completed at least 2,500 hours of appraisal experience but admitted that he was unable to provide any documentary verification of the number of his work hours, such as appraisal logs or employment records.

CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this matter pursuant to § 458.06 and 227. 44, Wis. Stats.
2. By failing to produce verification of the number of hours of qualifying appraisal work in compliance with the standards of Uniform Standards of Professional Appraisal Practice, (USPAP), the applicant has failed to prove that he is qualified for certification as a Certified Residential Appraiser.

ORDER

NOW, THEREFORE, IT IS ORDERED that the August 27, 2007, decision of the Department of Regulation and Licensing to deny the application of Jose (Pepe) Hurtado for certification as a Certified Residential Appraiser be, and hereby, is affirmed.

OPINION

I. Applicable Law

§ 458.06 (4), Stat., Residential Appraiser Certification.

The department shall grant and issue a residential appraiser certificate to any individual who does all of the following:

- (a) Satisfies the conditions in sub. (2).^[1]
- (b) Submits evidence satisfactory to the department that he or she has successfully completed the applicable educational and experience requirements specified in the rules promulgated under s. 458.085 (1) and (2).
- (d) Passes an examination conducted by the department under s.458.10 to determine fitness as a residential appraiser.
- (e) Satisfies any other requirements that the department determine, by rule, are necessary to ensure that a residential appraiser is qualified to perform an appraisal in a federally related transaction.

§ 458.085 (1) and (2), Stats.

The Department shall promulgate rules establishing all of the following:

- (1) Educational requirements for general and residential appraiser certification and for appraiser licensure under this chapter.
- (2) Experience requirements for general and residential appraiser certification and for appraiser licensure under this chapter.

RL 83.01(1a) Wis. Admn. Code.

An applicant seeking certification as a residential appraiser shall submit evidence satisfactory to the department that the applicant has at least 2,500 hours of appraisal experience obtained over a period of not less than 24 months.

RL 83.01(3)

The work claimed under subds. (1), (1a) and (2) for appraisal experience credit shall be approved by the department and shall accomplish all of the following:

- (a) Be in compliance with the Uniform Standards of Professional Appraisal Practice in effect at the time the appraisals were prepared.

RL 83.01(4)

An applicant application for certification or licensure under subds. (1) and (2) shall submit on forms provided by the department:

- (a) A roster of appraisal experience.
- (b) A chronological resume of employment.

RL 83.02 Wis. Admn. Code.

For purposes of verifying appraisal experience claimed under this chapter, the department may require an applicant to submit any of the following:

- (1) Business records, including tax records, which clearly demonstrate the practice of residential or commercial appraising claimed by the applicant;
- (2) Employment records provided by an employer which verify the applicant's experience as an appraiser or assessor. Employment records shall verify the number of hours employed, the type of experience, and a description of the applicant's duties.
- (3) Employment records provided by an official of a lending institution, insurance company, or similarly regulated agency, which verifies the applicant's experience as review appraiser.

RL 83.02 (5)

Records of the Department of Revenue or a local governmental body which document the applicant's experience as an assessor, including but not limited to: (1) a job description which identifies the job components of the mass appraisal process in accordance with Standard 6 of the USPAP.

II. Analysis

Mr. Hurtado testified that he had an employment history in the appraisal field, having worked for the State of Wisconsin Department of Revenue as a Property Assessment Specialist from 1975 to 1986. His employment was corroborated by a former co-worker. However, despite his obvious sincerity and desire to be helpful, this co-worker could not verify the actual number of hours of qualifying work experience performed by Mr. Hurtado. This was due, in part, to the number of years since the co-worker had been employed with Mr. Hurtado and the lack of any appraisal logs or employment records.

By law, an applicant for certification as a Residential Appraiser must show evidence of experience of not less than 2500 hours in not less than a two year period. The rules also specify the type of evidence which is required to document and establish this qualifying experience. Absent such documentation, the Department was not able to determine that Mr. Hurtado satisfied the USPAP requirements and, therefore, could not approve his application for a certificate as a Certified Residential Appraiser. Based upon the evidence adduced at the hearing in this matter, this ALJ is similarly unable to make a recommendation in favor of Mr. Hurtado's certification as residential appraiser.

In fact, although Mr. Hurtado's explanation as to why he was unable to provide documentation of his appraisal hours is understandable, it does not meet the requirement for certification. Mr. Hurtado's application is based upon alleged appraisals that would have been performed over twenty years ago. There is no written documentation of this appraisal work. Given the record retention policies of most public agencies, it is unlikely that such records would be available today. The only other evidence provided by Hurtado was that of a sympathetic co-worker at the DOR who could only provide a general description of their work together, but was unable to verify Mr. Hurtado's number of qualifying hours.

Mr. Hurtado's inability to establish through any other verifiable source that he had satisfied the required hours of qualifying

appraisal work is less convincing. When asked at the hearing about whether he had searched elsewhere for copies of his appraisals, Mr. Hurtado admitted that he did not check with other sources, such as a local governmental body or private property owners. As a result, upon conclusion of the hearing the record contained not much more than was submitted at the time of his application, except for general information about Mr. Hurtado's former employment with a state agency.

Mr. Hurtado clearly failed to produce any verifiable and credible evidence showing that he had fulfilled the requirements for certification as a Certified Residential Appraiser. The evidence submitted by Mr. Hurtado was inadequate to satisfy the legal requirements for certification. Although the inability to produce documentation is unfortunate, it cannot serve as an acceptable substitute for the verifiable hours of qualifying work required by law. Accordingly, the decision of the Department to deny his application for a certificate must be affirmed.

IV. Recommendation

Based upon the record herein, the Administrative Law Judge recommends that the Department of Regulation and Licensing adopt as its Final Decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this _____ day of September 2008.

Respectfully submitted,

Colleen Baird
Administrative Law Judge

[\[1\]](#) Must be at least 18 years of age, pay the required application fee, not have an arrest or conviction record, attend an educational course that includes at least 15 hours of ethics applicable to appraisers and pass an approved examination.