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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
FRANCIS J. HOLZER, : LS0808133APP
RESPONDENT. :

Division of Enforcement case file 07 APP 034

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

Francis J. Holzer
522 W. Wisconsin Ave.
Belmont, WI 53510-9739

Wisconsin 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

PROCEDURAL HISTORY

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 Wisconsin Real Estate Appraisers Board ("Board"). The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Francis J. Holzer is licensed in the State of Wisconsin as a Certified Residential Appraiser having license number 09-1483, first granted on June 7, 2006. Mr. Holzer also holds license number 4-24762 as a Licensed Appraiser, first granted on January 20, 2004.

2. Mr. Holzer's most recent address on file with the Department of Regulation and Licensing ("Department") is 1156 W. Elm St., Lancaster, WI 53813. His current address is 522 W. Wisconsin Ave., Belmont, WI 53510-9739.

3. On or about October 20, 2005, Mr. Holzer applied to the Department for a review of his work in order to be certified as a Certified General Appraiser. He submitted a roster of work completed and the Department requested copies of the following appraisal reports:

- 206 Highway 11, Shullsberg, Wisconsin,
- Feldermans Garage, Benton, Wisconsin, and
- Lisa's Flowers and Gifts, Boscobel, Wisconsin.

Mr. Holzer sent copies of his appraisal reports for those three properties to the Department.

4. The three appraisal reports were reviewed on February 26, 2007 by a member of the Real Estate Appraisers Application Advisory Committee (Committee), who noted numerous USPAP violations. Mr. Holzer's application was denied and the matter was referred to the Department's Division of Enforcement for disciplinary action.

5. With regard to the appraisal of property at 206 US Hwy 11 in Shullsburg, the appraisal report does not meet USPAP Standards for the following reasons:

S.R. 1-2b Intended Use

Uses the terminology “function” of the report; the proper terminology is “intended use.”

S.R. 1-2c Purpose and Reasonable Market Exposure Time

Does not provide an opinion of reasonable exposure time linked to the value opinion (see the comment below S. R. 1-2(c)(iv)). Confuses exposure time and marketing time; these are two different concepts as defined in USPAP. On pages 2 and 22 reports on “marketing period.” The standards rule requires exposure time.

S.R. 1-2d Effective Date

On page 2 refers to “prospective values,” but doesn’t give the future effective date. The balance of the report appears to refer to a current value; use of “prospective” is confusing.

S.R. 1-2e Property Characteristics

On page 18, refers to “both subject parcels.” The balance of the report indicates one parcel (e.g., page 23, etc.). This is confusing though it may be a proofreading error.

S.R. 1-4a Sales Comparison Approach

On p. 38, says no time adjustments are appropriate, yet makes time adjustments up to 60%. On page 41, says time adjustments are made.

On page 41, indicates time adjustments are .2-.6%, when they are actually 20-60%. On the same page, says age/condition adjustments are .1%, when they are actually 10%.

In the addenda, the land/building ratios are wrong, or the land size or building sizes are wrong.

On page 42, says the subject has excess land, but doesn’t say how much or attribute a value to it. Does not address excess land in the income approach. Even if it is unproductive, no explanation is given for not considering it.

S.R. 1-4b. Cost Approach

On p. 25, says no cost approach is completed, but does complete a cost approach. This is confusing.

States under the land valuation (p. 28) that all of the sales have “less flexible” zoning and that they are adjusted. The subject has B-2 zoning; some of the sales have B-i or B-3 zoning. Presumably, one of these zoning categories is more flexible and one less flexible based on permitted uses, but there is no discussion on this point.

No adjustments are shown for the land sales; it isn’t possible to follow Mr. Holzer’s reasoning. For Sales 1, 3, and 4, doesn’t give their sales dates. On p. 26, indicates there is a detailed description of each land sale in the Addenda, but there is no description of the land sales anywhere in the report, much less a detailed description.

S.R. 1-4c. Income Approach

On p. 45, there is no support for the concluded market rent. Says there are three rent comparables on the following page, but there are none.

S.R. 1-4g Personal Property, etc.

Includes value for personal property in the Sales Comparison Approach and final value opinion, but not in the Cost Approach. Does not clearly state the value of the Real Estate.

S.R. 2-2 Reporting Options

Mis-identifies the reporting option used. Indicates that this is a “summary” report, but the lack of analysis and description of required elements (e.g., land sales, rent comparables, cap rate support, etc.), makes this a “restricted” report.

6. With regard to the appraisal of property at Lisa’s Flowers and Gifts, 839 Wisconsin Avenue in Boscobel, the appraisal report does not meet USPAP Standards for the following reasons:

SR. 1-2b Intended Use

Uses the terminology “function” of the report; the proper terminology is “intended use.”

S.R. 1-2c Purpose and Reasonable Market Exposure Time

Does not provide an opinion of reasonable exposure time linked to the value opinion (see the comment below S. R. 1-2(c)(iv)).

SR. 1-2e Property Characteristics

On p. 15, does not indicate the building’s age. On p. 32, indicates that the building is 100 years old. The age should be included with the property description, since this is an objective and highly relevant piece of information.

S.R. 1-3a Land Use Regulations

On p. 20, includes only one sentence regarding zoning and neglects to state that information regarding permitted use, site size and setbacks was included on page 63 of the addendum.

S.R. 1-4a Sales Comparison Approach

There are two grids for the sales (p. 49 and 52) which contain different information under land/building ratios. Which is correct?

On p. 50, indicates that time adjustments are .2 – .4%, but they are actually 10 – 40%.

SR. 1-4b. Cost Approach

No land sales are provided. On p. 25, Mr. Holzer references four land sales, No adjustments are shown for the land sales; it isn't possible to follow Mr. Holzer's reasoning.

A building of 100 years age would typically have some functional obsolescence (e.g., inadequate insulation, outdated construction techniques, high ceilings, etc.).

This appears to be a 100 year old building in "average" condition, yet it is concluded to have a 20 year effective age. What significant renovations have been made to dramatically reduce the effective age?

Why is the Cost Approach relevant for a 100 year old building?

S.R. 1-4c. Income Approach

On p. 37, there is no support for the concluded market rent.

There is no provision for expenses (e.g., taxes, utilities, etc.) during vacancy.

The building is assessed at only \$35,200 (p. 16). Wisconsin mandates that assessments be 100% of market value.

Presumably, if the property is worth substantially more, the assessment and taxes will increase. There is no provision for this or explanation.

SR. 1-5 Subject Listing and Sale Information

There is no analysis of nor support for why the property is supposedly worth more than twice its recent sales price of less than two years ago. It is described as being in "average" condition, with no indication of recent improvements. The Standards Rule requires the appraiser to analyze the prior sale.

S.R. 2-2 Reporting Options

Mis-identifies the reporting option used. Indicates that this is a "summary" report, but the lack of analysis and description of required elements (e.g., land sales, rent comparables, cap rate support, etc.), makes this a "restricted" report.

7. With regard to the appraisal of property at Feldermans Garage in Benton, Wisconsin, the appraisal report does not meet USPAP Standards for the following reasons:

S.R. 1-1 Developing an Appraisal and S.R. 2-1 Report Not Misleading

On p. 2, indicates that the value of the property is \$94,000; on p. 55, indicates that it is \$104,000.

S.R. 1-2b Intended Use

Uses the terminology "function" of the report; the proper terminology is "intended use."

S.R. 1-2c Purpose and Reasonable Market Exposure Time

Does not provide an opinion of reasonable exposure time linked to the value opinion (see the comment below S. R. 1-2(c)(iv)).

S.R. 1-2d Effective Date

On the cover, gives three dates, but doesn't make it clear which is the effective date. On p. 2, uses the inspection date as the effective date. Other inferential dates in the body of the report are inadequate.

S.R. 1-3a Land Use Regulations

On p. 20, includes only one sentence regarding zoning and neglects to state that information regarding permitted use, site size and setbacks was included on page 60 of the addendum.

Indicates there is no assessment nor taxes. Presumably, the land has been assessed and taxed. Should estimate taxes since he is assuming that the building is built.

SR. 1-4a Sales Comparison Approach

Doesn't show any adjustments. It isn't possible to follow the reasoning and adjustment process.

On page 53, says the subject has excess land, but doesn't say how much or attribute a value to it.

Does not address excess land in the income approach.

Even if it is unproductive, no explanation is given for not considering it.

S.R. 1-4b. Cost Approach

On page 31, indicates no external obsolescence. Shows 30% on p. 35, but doesn't actually make any adjustment.

No adjustments are shown for the land sales; it isn't possible to follow Mr. Holzer's reasoning.

SR. 1-4c. Income Anuroach

On p. 38, there is no support for the concluded market rent.

There is no provision for expenses (e.g., taxes, utilities, etc.) during vacancy.

S.R. 2-2 Reporting Options

Mis-identifies the reporting option used. Indicates that this is a “summary” report, but the lack of analysis and description of required elements (e.g., land sales, rent comparables, cap rate support, etc.), makes this a “restricted” report.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

2. Respondent Francis J. Holzer is subject to discipline for violating Standards Rules of the Uniform Standards of Professional Appraisal Practice (USPAP), and thereby violating section RL 86.01 (2) of the Wisconsin Administrative Code and section 458.26 (3) (b) of the Wisconsin Statutes.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that the Respondent, Francis J. Holzer, be REPRIMANDED.

IT IS FURTHER ORDERED that within 9 months of the date of this Order, Mr. Holzer must successfully complete and pass the exams for the following educational courses in a classroom setting (i.e. not by distance education):

- (1) Uniform Standards of Professional Appraisal Practice (15 hours including exam)
- (2) Sales Comparison Valuation of Small, Mixed-Use Properties (16 hours including exam)
- (3) Income Valuation/Small Mixed-Use Properties (16 hours including exam)

and submit proof of successful completion in the form of verification from the institution providing the education to the following address:

Department Monitor
Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Fax (608) 266-2264
Tel. (608) 261-7904

The courses may be taken from the Appraisal Institute or from another educational institution approved in advance by the Department of Regulation and Licensing. None of the education completed pursuant to this order may be used to satisfy any continuing education requirements in any state where he holds a license or certification. In the event Mr. Holzer fails to successfully complete the educational requirements in the manner set forth, his Certified Residential Appraisers license and Appraisers license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until he provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that starting on the 10th business day after the date of this Order, and for a minimum of 30 months following the issuance of this order, Mr. Holzer’s Certified Residential Appraisers license and Appraisers license are hereby LIMITED as follows:

- Mr. Holzer may complete residential appraisals without supervision, but he may perform commercial appraisals, whether of a transaction value less than or more than \$250,000, only under the direct supervision and acknowledgement of a Wisconsin Certified General Appraiser who has been credentialed at that level for a minimum of 5 years.

Mr. Holzer may petition the Board for the removal or modification of this limitation after 30 months, and he may file the petition before the time period is complete. With such petition, Mr. Holzer shall submit a log of appraisals completed during the period of limitation, including the name and contact information of the client and any supervising appraiser; and he shall submit appraisal reports as requested by the Department for review to confirm compliance with appraisal methodology and USPAP.

IT IS FURTHER ORDERED that Mr. Holzer pay the Department’s costs of this matter in the amount of \$475.61 within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin

Department of Regulation and Licensing and sent to the Department Monitor. In the event Mr. Holzer fails to pay the costs within the time and in the manner as set forth above, his Certified Residential Appraisers license and Appraisers license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that the violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's licenses; the Board in its discretion may in the alternative impose additional conditions and limitations or other discipline.

IT IS FURTHER ORDERED that file 07 APP 034 be closed.

Dated this 13th day of August, 2008.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A member of the Board