

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
JOSEPH G. GENTILLI, : LS09111113APP
RESPONDENT. :

Division of Enforcement case files 07 APP 098, 08 APP 096, and 09 APP 044.

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

Joseph G. Gentilli
5414 Raymond Road
Madison, WI 53711

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. Joseph G. Gentilli is licensed in the State of Wisconsin as a Real Estate Appraiser and certified as a Certified Residential Appraiser with license number 9-694, first issued on July 14, 1993.
2. Mr. Gentilli’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 5414 Raymond Road, Madison, WI 53711.

Case 07 APP 098

3. In January of 2007, Joe Gentilli (not Respondent Joseph G. Gentilli) applied for licensure as a Real Estate Appraiser. He submitted three appraisal reports as evidence of experience. The reports were for appraisals of property at 2018 Helena Street, Madison, Wisconsin, dated June 27, 2007; 1209 Chapel Hill, Madison, Wisconsin, dated June 8, 2007; and 2778 Lyman Lane, Fitchburg, Wisconsin, dated April 25, 2007. Joe Gentilli’s work on all three appraisals was supervised by Respondent Joseph G. Gentilli. Violations of the Uniform Standards of Professional Appraisal Practice (USPAP) were identified on the first and third reports.

4. Under Standards Rule (SR) 2-3 of USPAP, an appraiser who signs an appraisal report as a supervisor

accepts full responsibility for the appraisal and the report.

5. The appraisal and appraisal report for 2018 Helena Street violated USPAP in the following ways:

- S.R. 1-1(a)(b)(c) Developing an Appraisal

Cost approach is about \$90,000 lower than the sales comparison approach; therefore, the report is not credible.

- S.R. 1-4(b) Cost Approach

This approach is much lower than the value opinion. There is no Quality Rating from the quoted source, Marshal/Swift. The 2005 form 1025 has a blank to fill in the rating. If not filled in, the reviewer can assume that the appraiser is not using a required cost manual. The report indicates that the land value was developed by a regression analysis, but no analysis was included in the report.

- S.R. 2 Report Not Misleading

The report is misleading, as the cost and market approach do not agree, and although Respondent Joseph G. Gentilli asserts that the two approaches to value do not agree due to the subject's age and depreciation, the report contains no explanation for the discrepancy.

6. The appraisal and appraisal report for 2778 Lyman Lane violated USPAP in the following ways:

- S.R. 1-1(a)(b)(c) Developing an Appraisal and S.R. 2 Report Not Misleading

Value indicators are all higher than the value opinion reported, thus creating a misleading report.

- S.R. 1-4b. Cost Approach

This approach is much higher than the value opinion. There is no Quality Rating from the quoted source, Marshal/Swift. The 2005 form 1025 has a blank to fill in the rating. If not filled in, the reviewer can assume that the appraiser is not using a required cost manual.

Case 08 APP 096

7. On July 19, 2008, Larry Frahmann of 4507 Sandpiper Trail in Cottage Grove, Wisconsin paid Respondent Joseph G. Gentilli \$275 to perform an appraisal of his property.

8. Mr. Gentilli performed an initial walk around but he failed to complete the appraisal and the report, and shortly afterward he closed his business. Mr. Gentilli has poor circulation in his legs that prevents him from walking or standing for any length of time, and degenerative joint disease of the left knee.

9. Despite repeated requests from Mr. Frahmann, Mr. Gentilli did not return the fee paid to him.

10. A previous complaint was received by the Department against Mr. Gentilli for failing to return a client's funds, for work that was not done. That complaint was closed without formal disciplinary action after Mr. Gentilli reimbursed the client.

Case 09 APP 044

11. Respondent Joseph G. Gentilli performed an appraisal and prepared an appraisal report for property at 2 Woodridge Court in Madison, Wisconsin. His estimate of value as of February 3, 2007 was \$605,000.

12. Mr. Gentilli performed an earlier appraisal on the same property as of August 26, 2005 (18 months earlier), at which time his estimate of value was \$435,000.

13. The February 2007 appraisal and appraisal report for 2 Woodridge Court violated USPAP in the following ways:

S.R. 1-2c Purpose and Reasonable Exposure Time and S.R. 2-2b(v) The report does not provide an opinion of reasonable exposure time linked to the value opinion (see the comment below S. R. 1-2(c)(iv)). If this were the only concern, no discipline would be appropriate, but the appraiser should be aware of the requirement.

S.R. 1-3b Highest and Best Use and S. R. 2-2b(ix) No Highest and Best Use analysis is provided. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. If this were the only concern, no discipline would be appropriate, but the appraiser should be aware of the requirement.

S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii) None of the sales are from the subject neighborhood or comparable neighborhoods. Sales 1 & 2 are close to the UW Madison campus with much higher rents than those attainable in the subject neighborhood. Sale 3 was sold to a developer who tore the building down and built new apartments (different highest and best use than the subject). Sale 4 is from a different neighborhood and is substantially newer. Age adjustments are far too small. Sale 4's age adjustment is inconsistent with the physical depreciation adjustment in the cost approach. There is no explanation for the unit adjustments, and 1, 2 and 4 bedroom units are considered to be of equal value. Sale 1 has a 4 bedroom unit which is considered inferior to a 3 bedroom unit despite the fact that a 4 bedroom unit will rent for more than a 3 bedroom unit. The GBA adjustments double count the unit adjustments. The report gives no consideration to the differing utility structures for the sales vs. the subject.

S.R. 1-4b Cost Approach and S.R. 2-2b(viii) The report provides no support for the concluded land value. This makes the report a restricted report, not a summary report. There is no explanation for the physical depreciation adjustment, and this adjustment is inconsistent with those in the sales comparison approach.

S.R. 1-4c. Income Approach and S.R. 2-2b(viii) There is no support for the concluded market rents. Only one of the rent comparables (rent comparable 3) is from the subject neighborhood, and it shows rents below the subject's actual rents. Rent comparable 1 is the only comparable to have higher rents, but its units are substantially larger than the subject's and have additional .5 baths. Rent Comparable 2 is a student rental property (UW Madison) and not a viable rent comparable vs. the subject. The report uses the inflated concluded market rents in calculating value by GRM approach, which inflates the subject's value.

S.R. 1-4d Interest Valued and S.R. 2-2b(iv) The report mis-states the property interest being valued. It is labeled "fee simple" and is actually "leased fee" or "fee simple, subject to lease." Even though there is no box on this form to check which reads "leased fee," the correct interest should be identified in the report.

S.R. 1-4g Personal Property, etc and S.R. 2-2b(iii and viii) The report states that no personal property (appliances) is included in the value opinion; similar buildings in this market almost always sell with appliances included, and they were included in the sale of the each of the four sales used. Since personal property was included in the sale of the comparable sales and not in the valuation of the subject, the sales should have been adjusted down for their inclusion of personal property.

S.R. 1-1 Developing an Appraisal and S.R. 2-1 Report Not Misleading The combination of concerns referenced above leads to the conclusion that these standards rules have been violated. The value opinion is significantly overstated.

14. Mr. Gentilli was unable to respond to the Department's request for a copy of his workfile because he destroyed all his appraisal files and workfiles when he closed his business.

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. By failing, as supervisor, to ensure that the appraisals and appraisal reports for 2018 Helena Street in Madison and 2778 Lyman Lane in Fitchburg complied with USPAP, Respondent Joseph G. Gentilli violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, and is subject to discipline under section 458.26 (3), Wis. Stats.

3. By accepting payment for work that was not completed and not reimbursing the client, Respondent Joseph G. Gentilli violated the USPAP Ethics Rule, and a violation of USPAP constitutes a violation of sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, for which he is subject to discipline under section 458.26 (3), Wis. Stats.

4. By failing to comply with USPAP in the February 2007 appraisal and appraisal report for property at 2 Woodridge Court in Madison, Respondent Joseph G. Gentilli violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, and is subject to discipline under section 458.26 (3), Wis. Stats.

5. By failing to maintain his appraisal files and workfiles for at least 5 years, Mr. Gentilli violated section 458.18 of the Wisconsin Statutes, section RL 86.01 (8) of the Wisconsin Administrative Code, and the Record-Keeping provision of the USPAP Ethics Rule, and a violation of USPAP constitutes a violation of sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, for which he is subject to discipline under section 458.26 (3), Wis. Stats.

ORDER

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

IT IS FURTHER ORDERED that the Real Estate Appraisers license issued to Joseph G. Gentilli, including the certification as a Certified Residential Appraiser, is **SUSPENDED**, effective on the tenth business day following the date on which this order is signed.

IT IS FURTHER ORDERED that Joseph G. Gentilli's Real Estate Appraiser's license may be reinstated as follows:

- the period of suspension is not less than six months;
- Mr. Gentilli completes the education required in the following paragraph, and
- Mr. Gentilli submits three appraisal reports, performed as demonstration reports or under supervision, for review by the Real Estate Appraisers Board and the Board approves the reports as complying with USPAP.

IT IS FURTHER ORDERED that prior to reinstating his license, the respondent, Joseph G. Gentilli, must successfully complete at least 45 hours of appraisal coursework from among the following Appraisal Institute courses or equivalent courses taken from any educational institution approved by the Department of Regulation and Licensing and approved in advance through the Department Monitor (below):

- Residential Sales Comparison and Income Approaches (30 hours including 2 hour exam)
- Advanced Residential Applications and Case Studies, Part 1 (15 hours including 1 hour exam)
- Residential Case Study (39 hours including 3 hour exam)
- Apartment Appraisal: Concepts and Applications (16 hours including 1 hour exam)
- Liability Management for Residential Appraisers (7 hours)
- Overview of Real Estate Appraisal Principles (7 hours)
- Quality Assurance in Residential Appraisals; Risky Appraisals = Risky Loans (7 hours)
- Supporting Sales Comparison Grid Adjustments for Residential Properties (7 hours)

None of the education completed pursuant to this order 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. Mr. Gentilli shall 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) 267-3817

IT IS FURTHER ORDERED that Mr. Gentili pay the Department's costs of these three matters in the amount of **\$875** within 120 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. Gentili fails to pay the costs within the time and in the manner as set forth above, his Real Estate Appraisers license may not be reinstated until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that files 07 APP 098, 08 APP 096, and 09 APP 044 be closed.

Dated this 11th day of November, 2009.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton, Board Chair