

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**
CHARLES C. KRAEMER, : LS0910077APP
RESPONDENT. :

Division of Enforcement case file 08 APP 076

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

Charles C. Kraemer
W4342 Hwy. 82 E
Mauston, WI 53948

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. Charles C. Kraemer is licensed in the State of Wisconsin as a Real Estate Appraiser and certified as a Certified Residential Appraiser with license number 9-438, first issued on June 16, 1992.
2. Mr. Kraemer’s most recent address on file with the Department of Regulation and Licensing (“Department”) is W4342 Hwy. 82 E, Mauston, WI 53948.
3. Mr. Kraemer performed an appraisal and prepared an appraisal report for property at E17703 Shaker Road in Elroy, Wisconsin as of January 26, 2006. His estimate of value was \$480,000.
4. In his appraisal and his report, Mr. Kraemer failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:
 - a. The order form contained in the work file suggests a value of \$465,000. Mr. Kraemer’s estimate of value was \$480,000. It appears as if the report may have been an attempt to meet a predetermined value. This would be a violation of the Ethics Rule.
 - b. The report did not provide an opinion of reasonable exposure time linked to the value opinion, a violation of S.R. 1-2c Purpose and Reasonable Exposure Time and S.R. 2-2b(v) (see the comment below S. R. 1-2(c)(iv)).

- c. The report provides conflicting information regarding the subject's basement. Page 1 of the report indicates a partial basement and 0 sq. ft. of basement area, which is a conflict. Page 2 indicates a partial basement. This is a violation of S.R. 1-2e Property Characteristics and S.R. 2-2b(iii).
- d. The report provides an incomplete legal description and no site dimensions, which is an inadequate description of the property. This is a violation of S.R. 1-2e Property Characteristics and S.R. 2-2b(iii).
- e. There is no support in the report for why a 66 year old house has an effective age of only 5 years. This is a violation of S.R. 1-2e Property Characteristics and S.R. 2-2b(iii).
- f. The report states on p. 1 that there are incomplete items ("laundry room, full bath on main level, and some doors and trim work"), yet these incomplete items are not addressed in the approaches to value. A prospective buyer is unlikely to pay the same amount for incomplete work as for complete work, and adjustments should have been made. This is a violation of S.R. 1-2e Property Characteristics and S.R. 2-2b(iii).
- g. The statement in the report that the zoning is "residential" is insufficient if the zoning authority uses more specific zoning classifications. This is a violation of S.R. 1-3a Land Use Regulations and S.R. 2-2b(iii).
- h. No Highest and Best Use analysis is provided. In his response to the department, Mr. Kraemer mentions that the subject could be a bed and breakfast, but there is no highest and best use analysis in the report to support this. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. This is a violation of S.R. 1-3b Highest and Best Use and S. R. 2-2b(x).
- i. Adjustments for site size are at the concluded value per acre (\$2,000) without consideration given to decreasing returns to scale. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).
- j. The report equates outbuildings which are dissimilar in number and composition without explanation. E.g., the subject is reported as having 3 outbuildings and 2 lean-to's, Sale 2 has a storage shed, and Sale 3 has a brick heated stable with 10 stalls, wash room, tack room and matching coach house. These are all considered equal. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).
- k. Sale 1 is reported in the report as having sold on 10/05/05 for \$450,000 with 50 acres. The MLS sheet shows that it sold for \$800,000 with either 396.54 or 398.54 acres on 09/29/05. The report indicates that there was no prior sale of this property in the year prior to the date of valuation, so the 09/05 is mis-reported. The explanation in the response to the department is incomplete at best; it indicates that it was broken into two parts in order to sell it. Does this mean that there were two different buyers? At a minimum, an accurate explanation should have been included in the report, along with the source of that information. It appears as if the respondent relied on another appraiser for this information, but that appraiser is not mentioned in the report. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).
- l. The adjustments for baths appear to be very low, and the basement adjustments are not explained. Each of the sales has a 100% basement, but two are adjusted and one is not. Sales 1 and 2 are adjusted when each is listed as having 40% finish, like the subject. There is no explanation in the report for whether the adjustments are for full vs. partial basements or for finish. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).
- m. The subject and Sale 2 are each reported in the grid to have a 3 car garage, yet Sale 2 is adjusted without explanation. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).
- n. The report shows 40% finish and "hi. eff. items" for the sales, yet these are not shown on the MLS sheets in the work file and there is no explanation for the source of the information. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).
- o. The MLS sheet for Sale 1 shows a 2 car detached garage, yet the grid shows no garage, without explanation. This

is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).

p. The report does not address the fact that Sale 2 was an operating campground at the time of sale, that it had an indoor pool, and that it is from a completely different market area. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(vii).

q. There is no explanation in the report for the functional depreciation deduction. If a functional depreciation deduction is made in this approach, it should also be addressed in other applicable approaches, and it is not. This is a violation of S.R. 1-4b Cost Approach and S.R. 2-2b(vii).

r. The report gives no explanation for the omission of the Income Approach to value. This is a violation of S.R. 1-4c. Income Approach and S.R. 2-2b(vii and xi).

s. The report mis-identifies the reporting option used by indicating that this is a “summary” report, yet the lack of analysis and description of required elements (e.g., no explanation for adjustments, no highest and best use analysis, etc.), makes this a “restricted” report. This is a violation of S.R. 2-2 Reporting Options.

t. The combination of all of the violations and other concerns referenced above leads to the conclusion that USPAP has been violated, which is itself a violation of S.R. 1-1 Developing an Appraisal and S.R. 2-1 Report Not Misleading.

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 to comply with USPAP in the appraisal and the appraisal report for property at E17703 Shaker Road in Elroy, Wisconsin, Respondent Charles C. Kraemer 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.

ORDER

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

IT IS FURTHER ORDERED that within one year of the date of this Order, the respondent, Charles C. Kraemer, must successfully complete at least 60 hours of real estate appraisal education. Classes may be taken from the following list of Appraisal Institute courses, or they may be equivalent courses taken from any educational institution approved by the Department of Regulation and Licensing and approved in advance. 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.

- Residential Market Analysis and Highest & Best Use - 15 hours, including 1 hr. exam
- Residential Sales Comparison and Income Approach - 30 hours, including 2 hr. exam
- Residential Case Study - 39 hours, including 3 hr. exam
- Effective Appraisal Writing - 7 hours
- Liability Management for Residential Appraisers - 7 hours
- Quality Assurance in Residential Appraisals: Risky Appraisals = Risky Loans - 7 hrs.
- Supporting Sales Comparison Grid Adjustments for Residential Properties - 7 hrs.

Mr. Kraemer 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

In the event Mr. Kraemer fails to successfully complete the educational requirements in the manner set forth, or to obtain an extension of time for good cause, his Real Estate 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 Mr. Kraemer pay the Department's costs of this matter in the amount of **\$166** 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. Kraemer fails to pay the costs within the time and in the manner as set forth above, his Real Estate 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 file 08 APP 076 be closed.

Dated this 7TH day of October, 2009.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton, Board Chair, or another member of the Board