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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
KELLY J. McCORMACK, : LS0910078APP
RESPONDENT. :

Division of Enforcement case file 07 app 143

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

Kelly J. McCormack
3264 North Cambridge Avenue
Milwaukee, WI 53211

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 the 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. Kelly J. McCormack is licensed in Wisconsin as a Real Estate Appraiser with license number 4-1460, first granted on June 18, 2002.
2. Ms. McCormack's most recent address on file with the Department of Regulation and Licensing ("Department") is 3264 North Cambridge Avenue, Milwaukee, WI 53211.
3. Ms. McCormack failed to complete the continuing education credits required for renewal of her license for 2006-7 and she stated falsely on her renewal application that she had completed them. A disciplinary order in case no. 06 APP 043 was signed on October 18, 2006 reprimanding Ms. McCormack and requiring her to pay a forfeiture of \$500 and costs of \$150 within 120 days of the date of the order. The order contained a provision that her license would be automatically suspended if she did not make the payments. Ms. McCormack paid the \$500 forfeiture on November 21, 2006 but she did not pay the \$150 for costs. The Department sent Ms. McCormack a letter regarding the payment on October 23, 2007. Ms. McCormack had moved and failed to notify the Department of the change of address, and the letter was returned. The Department suspended Ms. McCormack's license on November 6, 2007. Ms. McCormack paid the \$150 and her license was reinstated on December 11, 2007. Ms. McCormack continued to practice between November 6, 2007 and December 11, 2007.

4. In numerous appraisal reports which she signed as the appraiser, Ms. McCormack failed to acknowledge significant real property appraisal assistance by trainees whom she was supervising.

5. In her appraisal report for property at 2944 South 57 Street in Milwaukee, Wisconsin, Ms. McCormack failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:

a. 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)). It does provide marketing time in the addendum, but exposure time and marketing time are two different concepts as defined in USPAP. This is a violation of S.R. 1-2c Purpose and Reasonable Exposure Time and S.R. 2-2b(v).

b. There is inadequate support in the report for why a 54 year old house in “average+” condition has an effective age of 10-20 years. This is a violation of S.R. 1 - Property Characteristics and S.R. 2-2b(iii).

c. The legal description is described as “partial” in the report (number 2. on p. 2 of 3 of the addendum). Since the legal description defines the subject of the appraisal, it is important to include a complete and accurate legal description. This is a violation of S.R. 1 - Property Characteristics and S.R. 2-2b(iii).

d. The GLA and garage adjustments seem very low and are not adequately explained in the report. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii).

e. The MLS sheet for Sale 3 shows that it has new carpeting and fresh paint, and the MLS sheet for Sale 5 shows that it has newer windows. There is no indication in the report that the subject has these improvements. It appears that downward adjustments should have been made. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii).

f. “Difficulty in estimating accrued depreciation” is not an appropriate reason for not completing the Cost Approach. There are numerous appraisal assignments which are difficult; that doesn’t mean it isn’t possible to complete the appraisal in a credible manner. This is a violation of S.R. 1-4b Cost Approach and S.R. 2-2b(viii).

g. The report provides a land value on p. 3 of the report with no support for the concluded land value. This makes the report a restricted report, not a summary report. It references alternative methods of establishing a value - sales comparison, extraction, and allocation, but doesn’t indicate which of these methods was used for this report and doesn’t provide support for the \$31,000 conclusion. This is a violation of S.R. 1-4b Cost Approach and S.R. 2-2b(viii).

h. “Limited market data” is not a valid reason to exclude the Income Approach to value. More appropriate reasons might be that zoning prohibits rental, similar homes are purchased for owner occupancy (not investment), etc. This is a violation of S.R. 1-4c. Income Approach and S.R. 2-2b(viii).

i. USPAP requires an appraiser to analyze all listings “current” as of the effective date of the appraisal (S .R. 1- 5(a). The report contains a reference to a relatively recent listing of the subject property but does not analyze or discuss how that might impact on the subject’s value. While this is not a direct violation of S.R. 1-5(a), it is a violation of S.R. 2-2(b)(viii) since it is information contained in the report for which there is no analysis nor correlation to the subject’s concluded value. Also number 4. on page 2 of 3 of the addendum contradicts information at the top of p. 1 of the report in that it says that “the subject property has not been listed or transferred in the past three years.” This contradiction lessens the credibility of the report.

j. The report mis-identifies the reporting option used. It indicates that this is a “summary” report, but the lack of analysis and description of required elements (e.g., land sales, adjustments in the sales comparison approach, etc.), makes this a “restricted” report. This is a violation of S.R. 2-2 Reporting Options.

k. The report fails to name others who provided significant assistance, and thus the

certification (no. 19 of the pre printed form) is inaccurate. The report references “we” several times on pages 2. & 3. of the Addendum.V This is a violation of S.R. 2-3 Certification.

6. In her appraisal report for property at 9277 North 60 Street in Brown Deer, Wisconsin, Ms. McCormack failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:

- a. Ms. McCormack indicates in her letter to the Department dated 12/11/08 that she did not maintain control over her work file. This is a violation of the Ethics Rule, Record Keeping.
- b. 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)). It does provide marketing time in the addendum, but exposure time and marketing time are two different concepts as defined in USPAP. This is a violation of S.R. 1-2c Purpose and Reasonable Exposure Time and S.R. 2-2b(v).
- c. There is inadequate support in the report for why a 39 year old house in “average” condition has an effective age of 10-20 years. This is a violation of S.R. 1 - Property Characteristics and S.R. 2-2b(iii).
- d. The legal description is described as “partial” in the report (number 2. on p. 2 of 3 of the addendum). Since the legal description defines the subject of the appraisal, it is important to include a complete and accurate legal description. This is a violation of S.R. 1 - Property Characteristics and S.R. 2-2b(iii).
- e. The report does not provide a Highest and Best Use analysis. 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(ix).
- f. Sale 2 is adjusted at \$20 per square foot for differences in gross living area, and the remaining sales are adjusted at \$15 per square foot. There is no explanation in the report for this inconsistency. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii).
- g. The MLS sheets for Sales 2, 3 and 4 all show improvements which the subject appears to lack, yet there is no adjustment for condition or these improvements. In particular, Sale 3 references “newly remodeled eat-in kit w/new granite countertops (06)....” This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii).
- h. “Difficulty in estimating accrued depreciation” is not an appropriate reason for not completing the Cost Approach. There are numerous appraisal assignments which are difficult; that doesn’t mean it isn’t possible to complete the appraisal in a credible manner. This is a violation of S.R. 1-4b Cost Approach and S.R. 2-2b(viii).
- i. Page 3 of the report provides a land value with no support for the concluded land value. This makes the report a restricted report, not a summary report. It references alternative methods of establishing a value - sales comparison, extraction, and allocation, but doesn’t indicate which of these methods was used for this report and doesn’t provide support for the \$45,000 or \$65,000 conclusion. This is a violation of S.R. 1-4b Cost Approach and S.R. 2-2b(viii).
- j. “Limited market data” is not a valid reason to exclude the Income Approach to value. More appropriate reasons might be that zoning prohibits rental, similar homes are purchased for owner occupancy (not investment), etc. This is a violation of S.R. 1-4c. Income Approach and S.R. 2-2b(viii).
- k. The report 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, conflicting adjustments in the sales comparison approach, etc.), makes this a “restricted” report. This is a violation of S.R. 2-2 Reporting Options.
- l. The report fails to name others who provided significant assistance, and thus the certification (no. 19 of the pre printed form) is inaccurate. The report references “we” several times on pages 2. & 3. of the Addendum. This is a violation of S.R. 2-3 Certification.

7. In her appraisal report for property at 6019 West Beacon Hill Place in Franklin, Wisconsin, Ms. McCormack failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:
- a. 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)). It does provide marketing time in the addendum, but exposure time and marketing time are two different concepts as defined in USPAP. This is a violation of S.R. 1-2c Purpose and Reasonable Exposure Time and S.R. 2-2b(v).
 - b. There is inadequate support in the report for why a 32 year old house in “average” condition has an effective age of 14-15 years. This is a violation of S.R. 1-2e Property Characteristics and S.R. 2-2b(iii).
 - c. The legal description is described as “partial” in the report (number 2. on p. 2 of 3 of the addendum). Since the legal description defines the subject of the appraisal, it is important to include a complete and accurate legal description. This is a violation of S.R. 1-2e Property Characteristics and S.R. 2-2b(iii).
 - d. Zoning is listed as R-6 with “residential” for the description. There is inadequate description on this point. This is a violation of S.R. 1-3a Land Use Regulations and S.R. 2-2b(iii).
 - e. Adjustments of \$1,500 per room are not supported. In particular, for Sales 4 and 5, these adjustments double-count the gross living area adjustments. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii).
 - f. Page 1 of the addendum indicates that age and condition adjustments were made, but they were not made. This inconsistency lessens the credibility of the report. This is a violation of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii).
 - g. “Difficulty in estimating accrued depreciation” is not an appropriate reason for not completing the Cost Approach. There are numerous appraisal assignments which are difficult; that doesn’t mean it isn’t possible to complete the appraisal in a credible manner. This is a violation of S.R. 1-4b Cost Approach and S.R. 2-2b(viii).
 - h. Page 3 of the report provides a land value with no support for the concluded land value. This makes the report a restricted report, not a summary report. It references alternative methods of establishing a value - sales comparison, extraction, and allocation, but doesn’t indicate which of these methods was used for this report and doesn’t provide support for the \$66,300 conclusion. This is a violation of S.R. 1-4b Cost Approach and S.R. 2-2b(viii).
 - i. “Limited market data” is not a valid reason to exclude the Income Approach to value. More appropriate reasons might be that zoning prohibits rental, similar homes are purchased for owner occupancy (not investment), etc. This is a violation of S.R. 1-4c. Income Approach and S.R. 2-2b(viii).
 - j. The report 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, adjustments in the sales comparison approach, etc.), makes this a “restricted” report. This is a violation of S.R. 2-2 Reporting Options.
 - k. The report fails to name others who provided significant assistance, and thus the certification (no. 19 of the pre printed form) is inaccurate. The report references “we” several times on pages 2. & 3. of the Addendum. This is a violation of S.R. 2-3 Certification.

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 practicing as an appraiser and using the title “Wisconsin licensed appraiser” in a period during which her license was suspended, Ms. McCormack violated section 458.055 of the Wisconsin Statutes.

3. By failing to acknowledge significant real property appraisal assistance by trainees whom she was supervising, Ms. McCormack violated Standards Rule 2-3 of the Uniform Standards of Professional Appraisal Practice (USPAP).

4. By failing to comply with USPAP in the appraisal and the appraisal report for property at 2944 South 57 St., Milwaukee, Wisconsin, Ms. McCormack violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code.

5. By failing to comply with USPAP in the appraisal and the appraisal report for property at 9277 North 60 St., Brown Deer, Wisconsin, Ms. McCormack violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code.

6. By failing to comply with USPAP in the appraisal and the appraisal report for property at 6019 West Beacon Hill Place, Franklin, Wisconsin, Ms. McCormack violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code.

7. For the violations in Conclusions of Law 2 through 6, Ms. McCormack 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 VOLUNTARY SURRENDER by Respondent Kelly J. McCormack of her Real Estate Appraiser license is hereby ACCEPTED.

IT IS FURTHER ORDERED that file 07 APP 143 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