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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
SUSAN E. CANTWELL,	:	
RESPONDENT.	:	<u>ORDER 0000 353</u>

Division of Enforcement Case No. 07 APP 136

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Susan E. Cantwell
535 Grey Fox Run
Watertown, WI 53094

Wisconsin Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708

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

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 Real Estate Appraisers Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact and Conclusions of Law and Order:

FINDINGS OF FACT

1. Susan E. Cantwell is a duly licensed appraiser in the state of Wisconsin, and holds a certification as a certified residential appraiser in Wisconsin (#9-1716), which was first granted on 11/17/08 and is current through 12/14/11.
2. Ms. Cantwell's most recent address on file with the Wisconsin Department of Regulation and Licensing is 535 Grey Fox Run, Watertown, WI 53094.
3. Ms. Cantwell submitted an application to the Department to upgrade her license to a Certified Residential Appraiser. As part of the application process, Ms. Cantwell submitted

three appraisals that were reviewed by the Department. Review of those three appraisals demonstrated that Ms. Cantwell's appraisals failed to be in compliance with the Uniform Standards of Professional Appraisal Practice in effect at the time the appraisals were completed, and the Department denied Ms. Cantwell's application.

4. The matter was referred to the Division of Enforcement for disciplinary action in light of Ms. Cantwell's appraisals failing to comply with USPAP.

5. Ms. Cantwell's appraisals were found to be in violation of USPAP as detailed below.

COUNT I—Appraisal of Property at 528 E. Church Street, Jefferson, WI

6. On or about July 23, 2007, Ms. Cantwell completed an appraisal for property located at 528 E. Church Street, Jefferson WI, 53549. The appraisal showed a market value of \$ 186,000.

7. This appraisal was reviewed by the Department and it was determined that the appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP) in the following respects:

a. Standards Rules 1-2(e) and 2-2(b)(iii) by failing to provide support in the report for why a house that is 55 years old would have an effective age of 15 years; the report fails to address age or condition for long-lived components such as roof, windows, siding, furnace, kitchen or bath remodeling.

b. Standards Rules 1-3(b) and 2-2(b)(ix) by failing to provide a highest and best use analysis—simply checking a box on a form does not constitute an analysis.

c. Standards Rules 1-4(a) and 2-2(b)(viii) by selecting Sale 1 as a comparable sale when Sale 1 is a rural property while the subject is in the city limits with municipal services. There is no analysis in the report of the impact of municipal services vs. private, and no meaningful analysis of the potential differences in land value. The MLS lists Sale 1 as having 2,001 – 2,500 square feet, yet Ms. Cantwell used 1,930 square feet with no support in the work file for this number. The MLS shows Sale 1 as having an exposed walk-out basement—a value adding feature—which is omitted from the report. The MLS shows no exterior features listed, but the report references a patio and a porch. For Sale 2, the MLS lists this house at 2,316 square feet, but Ms. Cantwell's appraisal shows 2,200 square feet with no support in the work file for this number. The MLS shows Sale 2 as having a deck and fenced yard, but the report identifies a patio and a porch. For Sale 3, it appears the square footage is grossly understated in the report. Calculations in the work file show that reported room sizes were multiplied then added together, but no inclusion of square footage for baths, closets, halls, foyers. The report says Sale 3 is 85 years old, but there is no support in the work file for the age for this house, nor for a reported effective age of 8 years. There is also no meaningful explanation in the report for the level of adjustments.

d. Standards Rules 1-4(b) and 2-2(b)(viii) by failing to provide support for the concluded land value, making the report a restricted report not a summary report. The

physical depreciation adjustment does not match the effective age/total economic life listed, and there is no explanation if a different method of depreciation was used than observed age/life. The referenced cost service data is incomplete.

e. Standards Rules 1-5 and 2-2(b)(viii) by failing to analyze a sale which occurred less than two years prior to the date of valuation. The report does not identify the list price, how long it was on the market, whether there were any sales concessions, or why the property was now worth more than the prior sale.

f. Standards Rules 1-6 and 2-2(b)(viii) by failing to provide a reconciliation. Simply stating that two approaches were used is not a reconciliation.

g. Ethics Rule by reaching an appraised value that is the same number suggested by the client on the order form. The poor quality of the report, particularly the understating the size for each of the comparable sales, leads to the conclusion that the value may have been targeted to the client's requested value and is overvalued.

COUNT II—Appraisal of Property at 1922-1924 N. 27th Street, Milwaukee, WI

8. On or about August 6, 2007, Ms. Cantwell completed an appraisal for property located at 1922-1924 N. 27th Street, Milwaukee, WI 53208. The appraisal showed a market value of \$ 77,000.

9. This appraisal was reviewed by the Department and it was determined that the appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP) in the following respects:

a. Standards Rules 1-2(e) and 2-2(b)(iii) by failing to provide support in the report for why a building that is 114 years old would have an effective age of 35 years; the report fails to address age or condition for long-lived components such as roof, windows, siding, furnace, kitchen or bath remodeling; and there is minimal description of the property itself.

b. Standards Rules 1-3(b) and 2-2(b)(ix) by failing to provide a highest and best use analysis—simply checking a box on a form does not constitute an analysis;

c. Standards Rules 1-4(a) and 2-2(b)(viii) by making no condition adjustments for Sale 1 when the MLS sheet says it is being sold “as is,” which generally means there are condition issues. For Sale 2, the MLS shows rents to be \$1,095/month, but the report shows \$1,045/month. For Sale 3, there is no support in the work file for the \$1,000/month rent noted in the report. There is also no meaningful explanation in the report for the level of adjustments. All of the comparable sales selected have units with more bedrooms, yet minimal adjustments are made. The \$200 per bedroom adjustment implies that a 3 bedroom unit will rent for only \$2.67 more per month than a 2 bedroom unit, given the concluded GRM of 75, which is not credible.

d. Standards Rules 1-4(b) and 2-2(b)(viii) by failing to provide support for the concluded land value, making the report a restricted report not a summary report. The report utilizes the Cost Approach for a 114 year old building that is more than 50% depreciated—this

does not make sense. The physical depreciation adjustment does not match the effective age/total economic life listed, and there is no explanation if a different method of depreciation was used than observed age/life. There is no explanation in the report for how the external depreciation adjustment was derived. The referenced cost service data is incomplete.

e. Standards Rules 1-4(c) and 2-2(b)(viii) by the inconsistency in the rent. Only one of the subject units was apparently rented for \$500 (p.2 of report), yet the report also states that the current monthly rent is \$1,000. For Rent Comparable 1, the MLS shows no rent for either unit, and there is nothing in the work file to indicate the rents shown in the report. Rent Comparable 1 is also Sale 3—on p.2 the units are listed as being a 2 bedroom and a 3 bedroom; on p.3, both are indicated as 3 bedroom units; MLS shows two 3-bedroom units. For Rent Comparable 2, the MLS shows both units to be vacant. There is nothing in the work file to indicate the rents shown in the report.

f. Standards Rules 1-4(d) and 2-2(b)(iv) by misstating the property interest being valued as “fee simple” when it is actually “leased fee” or “fee simple, subject to lease.” Even though there is no box to check on the form for “leased fee” the correct interest should be identified in the report.

g. Standards Rules 1-5 and 2-2(b)(viii) by failing to analyze the current listing and sale.

h. Standards Rules 1-6 and 2-2(b)(viii) by failing to provide an adequate reconciliation.

i. Ethics Rule, Competency Rule, and Standards Rules 1-1, 2-1, 2-2(b) and 2-3 by the number of factual errors and inconsistencies in the report.

COUNT III—Appraisal of Property at 5918 N. 40th Street, Milwaukee, WI

8. On or about August 23, 2007, Ms. Cantwell completed an appraisal for property located at 5918 N. 40th Street, Milwaukee, WI 53209. The appraisal showed a market value of \$ 50,000.

9. This appraisal was reviewed by the Department and it was determined that the appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP) in the following respects:

a. Standards Rules 1-2(e) and 2-2(b)(iii) by failing to provide support in the report for why a house that is 58 years old would have an effective age of 20 years; the report fails to address age or condition for long-lived components such as roof, windows, siding, furnace, kitchen or bath remodeling. The report indicates that the floor coverings need to be replaced and that they are in “average” condition—that is contradictory.

b. Standards Rules 1-3(b) and 2-2(b)(ix) by failing to provide a highest and best use analysis—simply checking a box on a form does not constitute an analysis.

c. Standards Rules 1-4(a) and 2-2(b)(viii) by Ms. Cantwell stating that she deducted points from Sales 1 and 3, but the amounts deducted do not match what is shown on the MLS, and seller points are typically deducted on the line which states “sale and financing concessions.” Sale 1 has a reported sales price of \$50,000, with \$500 in closing costs paid by the seller—Ms. Cantwell reports the sales price to be \$49,000. Sale 3 has a reported sales price of \$58,000 and \$2,500 in closing costs paid by the seller—Ms. Cantwell reports the sales price to be \$56,400. Each property is rated “average” in the grid when the comments on the MLS sheets show some significant differences in condition. For Sale 1, MLS shows a fenced yard but the report says porch. For Sale 2, there is no adjustment for a basement. For Sale 3, MLS shows a partial basement but the report says full basement. There is no meaningful explanation in the report for the level of adjustments, and no adjustments made when they would typically be expected.

d. Standards Rules 1-4(b) and 2-2(b)(viii) by failing to provide support for the concluded land value, making the report a restricted report not a summary report. There is one land sale in the work file for \$35,000, but the land value conclusion in the report is \$10,000. These are inconsistent. The report utilizes the Cost Approach for a 58 year old building that is more than 50% depreciated, which does not make sense. The physical depreciation adjustment does not match the effective age/total economic life listed, and there is no explanation if a different method of depreciation was used than observed age/life. The referenced cost service data is incomplete.

e. Standards Rules 1-5 and 2-2(b)(viii) by failing to analyze the current listing and sale.

f. Standards Rules 1-6 and 2-2(b)(viii) by failing to provide a reconciliation.

g. Ethics Rule, Competency Rule, and Standards Rules 1-1, 2-1, 2-2(b) and 2-3 by the number of factual errors and inconsistencies in the report.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26, and is authorized to enter in the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. The conduct described above in paragraphs 6-11 constitutes a violation of:

- a. USPAP Standards Rule 1-2(e) and 2-2(b)(iii);
- b. USPAP Standards Rule 1-3(b) and 2-2(b)(ix);
- c. USPAP Standards Rule 1-4(a) and 2-2(b)(viii);
- d. USPAP Standards Rule 1-4(b) and 2-2(b)(viii);
- e. USPAP Standards Rule 1-5 and 2-2(b)(viii);
- f. USPAP Standards Rule 1-6;
- g. USPAP Standards Rule 2-2(b)(iii);
- h. USPAP Standards Rule 2-2(b)(iv);
- i. USPAP Standards Rule 2-2(b)(ix);

- j. USPAP Standards Rule 2-2(b)(viii);
- k. USPAP Standards Rule 2-2(b)(ix); and
- l. USPAP Ethics Rule.

3. As a result of the above USPAP violations, Ms. Cantwell is deemed to have also violated Wis. Admin. Code § 86.01(2), thereby subjecting herself to discipline pursuant to Wis. Admin. Code § 86.01(1) and Wis. Stat. § 458.26(3)(b) and (c).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of Respondent, **Susan E. Cantwell**, #9-1716, is hereby **LIMITED** as follows:

a. Susan E. Cantwell shall, within one year of the date of this Order, successfully complete at least forty-five (45) hours of continuing education from among the following courses offered by the Appraisal Institute, or equivalent courses by a provider pre-approved by the Board's monitoring liaison, including taking and passing the exam offered for the courses:

- i. Residential Sales Comparison and Income Approaches (30 hrs., including 2 hr. exam)
- ii. Residential Report Writing and Case Studies (15 hrs., including 1 hr. exam)
- iii. Advanced Residential Application and Case Studies/Part 1 (15 hrs., including 1 hr. exam)
- iv. Advanced Residential Application and Case Studies/Part 2 (15 hrs., including 1 hr. exam)
- v. Residential Case Study (39 hrs., including 3 hr. exam)

b. Ms. Cantwell shall submit proof of the same in the form of verification from the institution providing the education to the address stated below. None of the education completed pursuant to this requirement 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, and also may not be used in future attempts to upgrade her credential in Wisconsin.

c. Ms. Cantwell shall not appraise anything other than single family properties and lots for single family homes. This limitation shall remain in place for a minimum of 3 months following the successful completion of the education ordered in paragraph 2a. This limitation shall only be lifted upon a successful petition to the Board for removal of this limitation. Any such petition shall be accompanied by a work log of appraisals Ms. Cantwell has completed from the date of the Order to the date of the petition, from which the Board may randomly select three appraisals to review for USPAP compliance and compliance with the limitations. The earliest any such petition may be filed with the Board is three months after successful completion of the education ordered in paragraph 2a.

2. **Susan E. Cantwell** shall, within 120 days of the date of this Order, pay **COSTS** of this matter in the amount of Four Hundred Fifty-six and 80/100 dollars (\$456.80).

3. Proof of successful course completion, payment of costs (made payable to the Wisconsin Department of Regulation and Licensing), and any petition for removal or modification of the limitations, shall be mailed, faxed or delivered by the Respondent to the Department Monitor at this address:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs as ordered or fails to comply with the ordered continuing education as set forth above, the Respondent's license (#9-1716) may, in the discretion of the board or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

5. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
A Member of the Board

8/25/2010
Date