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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
NEAL AITCHISON,	:	<i>ORDER 0000399</i>
RESPONDENT	:	

Division of Enforcement Case File 08 APP 077

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

Neal Aitchison
N20 W28400 Oakton Road
Pewaukee, WI 53072

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

Wisconsin 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. Neal Aitchison is licensed in the State of Wisconsin as a Real Estate Appraiser and certified as a Certified Residential Appraiser with license number 9-685, first issued on June 29, 1993.
2. Mr. Aitchison's most recent address on file with the Department of Regulation and Licensing (Department) is N20 W28400 Oakton Road, Pewaukee, WI 53072.

3. Mr. Aitchison performed an appraisal and prepared an appraisal report for property described as Lots 1 and 2 CSM 101123 of Record in Brookfield, Wisconsin as of November 1, 2007.

4. In his appraisal and appraisal report, Mr. Aitchison failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:

S.R. 1-1(a) — Correctly employ recognized methods and techniques.

The report indicates the cost approach was utilized with no reference to the source for cost data. The segregated cost numbers were simply a reiteration of the cost estimates provided by the borrower/developer. The appraiser's notes indicate there may have been a check for reasonableness against the developer's estimates but, the reasonable numbers were not utilized within the segregated cost. After totaling the costs, as presented by the developer, the appraiser applied a "minimum feasibility factor". There is no explanation as to what this refers to or how it was developed. This is not a recognized method or technique.

S.R. 1-2 (e) (ii) (v) — Identify the characteristics.

The interest to be valued is not identified.

The engagement letter states the appraisal is to be "As-Is" of the "remaining vacant land at Fox Hollow Condos". Based on a review of the photo page, there appears to be one 2-family building up and finished. The report should have been for the remaining potential eight (8) units, or the report should have stated that the existing improvements were not considered in the valuation and why.

S.R. 1-2 (g) Hypothetical Conditions.

The property appears to have been improved with a two unit building, and the exclusion of this improvement is a hypothetical condition.

S.R. 1-4 (a) Sales Comparison Approach.

The report indicates there is a "complete lack of vacant condo land sales fully improved", requiring the use of the cost approach. A telephone interview with Mr. David Taylor of Timberwood Bank indicated that they contracted another appraisal using the sales comparison approach, performed by a different appraiser. This implies there was sales data available, with that Mr. Aitchison did not perform adequate due diligence to discover potentially appropriate sales.

S.R. 2-1 (a) Misleading Report.

The appraisal report appears to be simply a reiteration of the developer's costs, then applying a multiplier based on the developer's projected profit margin on a completed unit to a development cost of the land. This is an inappropriate and misleading method and technique.

S.R. 2-1 (b) Sufficient Information.

The appraisal report lacks sufficient information for the intended user (Timberwood Bank) to understand the report. The information lacking is support or justification for the segregated cost numbers, an explanation of the “minimum feasibility factor”, and why a feasibility factor is appropriate within the cost approach.

S.R. 2-1 (c) Extraordinary Assumptions and Hypothetical Conditions.

The exclusion of the existing building is a hypothetical condition that was not noted.

S.R. 2-2 Identification of type of report.

The report is identified as a Restricted Use Appraisal, via checking a box; this should be “prominently” stated. The engagement letter states “You agree that TIMBERWOOD BANK can make copies of the appraisal report for distribution to loan participants. You also agree that TIMBERWOOD BANK can discuss the results with and provide a copy of the report to the borrower at its discretion.” Knowing the report can and probably will be distributed to others, beyond the client/intended user, precludes the use of a restricted use appraisal.

S.R. 2-2 (c) (iii) Describe information sufficient to identify the real estate.

The report is not clear if the valuation is for the remaining vacant land or the underlying land for the entire development, including any areas already developed with structures. The report indicates the development will “ultimately have 5 duplex styled condos with a total of 10 units”. The attached site plan shows a total of four (4) buildings, with two being duplex buildings and two being triplex buildings for a total of 10 units.

S.R. 2-2 Ic) (v) Value Definition and Cite the Source.

The source of the value definition is not identified.

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 described as Lots 1 and 2 CSM 101123 of record in Brookfield, Wisconsin, Respondent Neal Aitchison 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 six months of the date of this Order, the respondent, Neal Aitchison, must successfully complete the 15-hour online class in “Residential Site

Valuation & Cost Approach" from VanEd, which may not 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. Aitchison 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. Aitchison's Real Estate Appraiser's license is hereby limited, in that for a period of two years following the date of this order, he shall submit all narrative appraisal reports to another Wisconsin certified appraiser in good standing with the State of Wisconsin Department of Regulation and Licensing who shall review and sign all of Mr. Aitchison's reports as his supervisor.

IT IS FURTHER ORDERED that Mr. Aitchison pay the Department's costs of this matter in the amount of **\$1,207.74** 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.

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 (# 9-685) 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 and/or completion of the continuing education.

IT IS FURTHER ORDERED that file 08 APP 077 be closed.

Dated this 3 day of September 2010.

WISCONSIN REAL ESTATE APPRAISERS BOARD

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