

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
THOMAS WALKER, SR.,	:	<i>ORDER 0000542</i>
RESPONDENT.	:	

Division of Enforcement case file 07APP 079

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

Thomas Walker, Sr.
N21416 Truax Road
Ettrick, WI 54627

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. Thomas Walker, Sr. is licensed in the State of Wisconsin as a Real Estate Appraiser. He is also certified as a Certified General Appraiser, with license 10-69, first issued on October 24, 1991.
2. Mr. Walker's most recent address on file with the Department of Regulation and Licensing ("Department") is N21416 Truax Road, Ettrick, WI 54627.

3. Thomas Walker, Jr. is licensed in the State of Wisconsin as a Real Estate Appraiser. He is also certified as a Certified Residential Appraiser, with license 9-1181, first issued on April 4, 2000.

4. Thomas Walker, Jr. applied to the Department of Regulation and Licensing for certification as a Certified General Appraiser and on December 20, 2006 he submitted a roster of experience from which the Department chose three appraisal reports to review.

5. Thomas Walker, Jr. submitted the following appraisal reports to the Department for review:

Hooches Bar and Grill, 23351 Elm St., Independence, WI - 11/16/06

Planagon Holdings, 3033 E. Main St., Onalaska, WI - 9/19/05

Carmen-Eddy Building, 1226-1228 Caledonia St., La Crosse, WI - 2/1/05

6. Thomas Walker, Sr. supervised Thomas Walker, Jr. in the performance of the three appraisals above, and Mr. Walker, Sr. signed all three reports as supervisor.

7. Under the comment to Standards Rule 2-3 of the Uniform Standards of Appraisal Practice (USPAP), "any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report."

8. The three appraisal reports were reviewed by a member of the Real Estate Appraisers Advisory Committee, who identified USPAP violations.

9. Violations of USPAP constitute violations of section RL 86.01 (1) and (2) of the Wisconsin Administrative Code and section 458.26 (3) (b) and (c) of the Wisconsin Statutes.

10. With regard to the appraisal of Hooches Bar and Grill at 23351 Elm Street in Independence dated 11/16/06:

a. The report states that the subject property sold for \$105,000 in November 12, 2005, but it does not analyze the sale. A prior sale from August 4, 2003 for \$110,000 is located in the work file, but there was no analysis of the sale price and what items of personal property or fixtures were included in the sale price. There is no explanation for why that the property would be worth \$260,000 in less than one year from the sale with no significant improvements to the property. The report on page 6 only says the market conditions "have remained stable." In his response, Mr. Walker stated that on November 12, 2005, the subject had 1,208 feet of building area and that when he inspected it, the subject had 2,961 square feet of building area, meaning that the owner improved the property to include a dining and kitchen area consisting of 1,753 square feet. Mr. Walker wrote "there was nothing unusual in the prior sales to analyze. Stating the market conditions have remained stable does not misrepresent the improvements." Nevertheless,

the report should have included an explanation for why the value of the property increased by 150% in one year.

b. The report indicates that the actual age of the subject is "1-15+/-". Mr. Walker responded that this is due to the addition. Nevertheless, without an explanation, "1-15+/-" is meaningless.

c. The report indicates that the value of the land is derived using "a statistical formula", but no statistical formula was present in the work file. Mr. Wallace stated that he used a formula he was taught in a course he took in July of 1989. The formula was "Clear calculator. Then f (key) then E+ (key, then comp sales price, then enter (key) the comp square footage, then E+(key), follow above entry of data until done with comps. Then enter subject's square footage, then g(key), then y,r(key) answer will appear. The y,r key is the number 2 key." This is inadequate.

d. 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)), and it confuses exposure time with marketing time, two different concepts as defined in USPAP.

e. The report indicates a total life expectancy of 35 years and an effective age of 15 years; this means the remaining economic life would typically be 20 years, but it states without explanation that the remaining economic life is 30 years.

f. This is an income producing property, yet no income approach was completed. If rents were not available, an alternative method of completing this approach would have been to bifurcate the income stream, attributing a portion to the real estate and a portion to the business enterprise. It is not acceptable, however, for this approach to be omitted for this type of property and the stated intended use of the report.

g. 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., no highest and best use analysis, no support for land value, no support contained in the report for adjustments in the sales comparison report (says they are based on extraction without providing that extraction), no discussion of what is permitted in this zoning classification, etc., makes this a "restricted" report.

11. With regard to the appraisal of Planagon Holdings at 3033 East Main Street in Onalaska dated 9/19/05:

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)), and it confuses exposure time with marketing time, two different concepts as defined in USPAP.

b. 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., no

highest and best use analysis, no analysis of the prior sale contained in the report, no discussion of what is permitted in this zoning classification, etc.), makes this a “restricted” report. Highest and best use, as contained in the report is only one sentence and does not address the legitimate question that highest and best use is most likely different as vacant and as improved.

c. The certification of the report does not acknowledge Thomas Walker, Jr.’s contribution to the report, yet, in his letters to the department, Thomas Walker, Sr. indicates 43 hours for Thomas Walker, Jr.

12. With regard to the appraisal of the Carmen-Eddy Building at 1226-1228 Caledonia Street in La Crosse dated 2/1/05:

a. The Income Approach does not include in the report or work file any rental data collected by the appraiser. Appraiser states “rents appear to be at market value”, but there is no reasonable support for expenses, or vacancy provided. Mr. Walker referenced his work file and explained that the “subject is a triple net lease. Carrier Insurance is \$1,500. \$450 (plus) are the reported rents. In triple net leases, expenses are the tenants’ responsibility. A 5% vacancy was reported.” Nevertheless, the report and work file contain insufficient information to support the appraisal.

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)), and it confuses exposure time with marketing time, two different concepts as defined in USPAP.

c. The report has no support for the statement that the effective age is 10 years for a building which is 100 years old and in good/average condition.

d. 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.”

e. 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., no highest and best use analysis, no support for land value and rents contained in the report, no discussion of what is permitted in this zoning classification, etc.), makes this a “restricted” report.

f. The certification of the report does not acknowledge Thomas Walker, Jr.’s contribution to the report, yet, in his letters to the department, Thomas Walker, Sr. indicates 17 hours for Thomas Walker, Jr.

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 10, 11, and 12 constitutes a violation of Uniform Standards of Professional Appraisal Practice (USPAP) Rules and Standards Rules (SR), as specified therein.
3. As a result of the identified USPAP violations, Thomas Walker, Sr. is deemed to have also violated Wis. Admin. Code § RL 86.01(2), thereby subjecting himself to discipline pursuant to Wis. Admin. Code § RL 86.01(1) and Wis. Stat. § 458.26(3)(b) and (c).

ORDER

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

IT IS FURTHER ORDERED that Thomas Walker, Sr. shall, within one year of the date of this Order, successfully complete at least sixty (60) hours of continuing education from among the following courses offered by the Appraisal Institute:

- i. General Appraiser Sales Comparison Approach (30 hours)
- ii. General Appraiser Site Valuation and Cost Approach (30 hours)
- iii. Residential Market Analysis and Highest and Best Use (15 hours)
- iv. Residential Sales Comparison and Income Approach (30 hours)

Successful completion of the continuing education courses chosen shall include taking and passing any exam offered for the courses. These courses may be taken through the Appraisal Institute or equivalent/substitute courses may be taken through another educational institution, where the course and/or educational institution are approved in advance by the Department Monitor. Mr. Walker 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.
Tel. (608) 261-7904; Fax (608) 266-2264

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.

IT IS FURTHER ORDERED that Thomas Walker, Sr. pay the Department's costs of this matter in the amount of \$427.77 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.

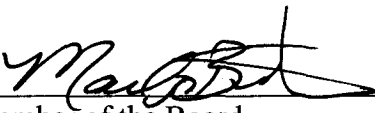
IT IS FURTHER ORDERED that a violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare. The Board in its discretion may impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. 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 (10-69) 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.

IT IS FURTHER ORDERED that this Order is effective on the date of its signing.

IT IS FURTHER ORDERED that file 07 APP 079 is closed.

Dated this 10 day of November, 2010.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: 
A member of the Board