

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

| | | |
|-----------------------------------|---|--------------------------|
| IN THE MATTER OF THE DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | |
| | : | FINAL DECISION AND ORDER |
| GERALD C. DOW, | : | |
| RESPONDENT. | : | <u>ORDER 0000 548</u> |

Division of Enforcement Case Nos. 06 APP 133 and 08 APP 084

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

Gerald C. Dow
N345 Redtail Lane
Appleton, WI 54915

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 to 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. **Gerald C. Dow** (D.O.B. 07/30/47), is a duly certified residential appraiser in the state of Wisconsin, holding certification # 9-1023 which was first granted on May 28, 1996. Mr. Dow's most recent address on file with the Wisconsin Department of Regulation and Licensing is N345 Redtail Lane, Appleton, WI 54915.

2.

2. On or about January 19, 2005, Gerald C. Dow signed an appraisal of property located at 2277 Polk Barron Street, Cumberland, WI 54829 (the "Polk Barron Property"). This appraisal showed a market value of \$200,000 as of January 7, 2005, the effective date of the appraisal report.

3. The appraisal of the Polk Barron Property was reviewed by the Department and a Wisconsin certified general appraiser, and was found to be in violation of the Uniform Standards of Professional Appraisal Practice ("USPAP") Standards Rules in the following respects:

a. Standards Rule 1-1(a), (b) and (c), by rendering appraisal services in a careless or negligent manner and by making the following errors and omissions:

- the selection of comparable sales demonstrates a lack of knowledge about the market area—grid adjustments are not based on market extraction or paired sale analysis;
- the most current 2004 taxes were not reported;
- the neighborhood/township is incorrectly identified;
- the census tract is incorrectly identified;
- the land use is not detailed;
- 20% single family development is not "predominant" as stated in the report
- wrong comparable sale photos were included in the report;

b. Standards Rule 1-2(e), by incorrectly reporting that the Polk Barron Property has municipal water and sewer, curb, gutter and sidewalk, and by improperly characterizing a 3,456 square foot pole building as a 3 gar garage;

c. Standards Rule 1-4(a), by making errors in the analysis of comparable sales data such as: incorrectly identifying Realtors Assn of Northeast WI as the data source; erroneously adjusting Sale #1 positively for newer construction, reporting Sale #1 as having 3 bathrooms when MLS data indicates 2.5 baths, by failing to adjust Sale #1 for central air, a deck, a shed, set-up for horses with water and power, a 36 x 54 pole building with a shop that is heated and has central air, and by minimally adjusting Sale #1 (\$500) for a partially finished basement; by failing to report that Sale #2 closed on 11/19/04, and failing to report and adjust for the fact it is located on a lot with a frontage on Wolf Creek, by incorrectly reporting Sale #2 as having 1.0 bath and 1,176 sq. ft. GLA when MLS data demonstrates it has 1.5 baths and 1,300 sq. ft. GLA, by failing to adjust for the fact Sale #2 has a full walk-out basement with above grade quality finished lower level (an additional 1,300 Sq. Ft.), has central air, a patio and deck, has a fireplace and a 24 x 48 pole building; and by failing to report that Sale #3 closed on 8/10/04 and by failing to adjust Sale #3 for a partially finished basement, central air, attached garage that is heated and air conditioned, has a screened porch, a shed, and a pole building with a lean-to;

d. Standards Rule 1-4 (b) (i)(ii) (iii), by calculating and reporting the replacement value for the 3,456 sq. ft. "garage" (actually a pole building) to be \$24.89/sq. ft for a total a replacement value of \$86,020;

e. Standards Rule 1-6(a), by failing to reconcile the quality and quantity of data available and analyzed within the approaches used; and

f. Competency Rule by the series of errors, omissions and incorrectly applied approaches to value cited above.

4. On or about January 10, 2007, Gerald C. Dow signed an appraisal of property located at 9366 Yurek Road, Pulaski, WI 54162 (the "Yurek Property"). This appraisal showed a market value of \$303,000 as of January 6, 2007, the effective date of the appraisal report.

5. The appraisal of the Yurek Property was reviewed by the Department and a Wisconsin certified general appraiser, and was found to be in violation of USPAP Standards Rules in the following respects:

a. Standards Rule 1-1 (a),(b), and (c), by failing to understand and correctly employ recognized methods, committing a a substantial error of omission or commission, and rendering appraisal services in a careless or negligent manner:

- i. comparable sale selection demonstrates a basic lack of knowledge
- ii. comparison approach – high quality architectural design homes with an attached 3-car garage would not be a market substitute for a basic rectangular style home with a detached 2 car garage
- iii. grid adjustments are not based on market extraction or paired sale analysis
- iv. "Hypothetical Appraisal" heading is confusing/misleading
- v. utilities as reported on page #1 as LP Gas & N Gas is confusing or misleading
- vi. shared driveway not reported nor the impact an easement might have on marketability
- vii. report fails to provide data regarding current sales and listings in the market
- viii reports Yurek Property has vinyl/brick siding on page #1, and makes negative grid adjustments for superior properties with vinyl/brick siding

b. Standards Rule 1-2 (a),(e), and (f), as follows:

- i. the report fails to identify the clients and intended users; the report's reference to "the lender/client" is not sufficient.
- ii. the report fails to accurately detail the present land use for the four (4) township neighborhood
- iii. MLS data indicates the subject has electric baseboard heating, not forced air
- iv. MLS data indicates the subject has a free-standing, not conventional fireplace

v. MLS data indicates the subject has 1,568 sq. ft., assessment data indicates 1,456 sq. ft. appraisal report indicates 1,710 sq. ft.; there is no analysis of this discrepancy

vi. the report contains no scope of work statement

c. Standard Rule 1-4 (a) (b) (i) (ii) (iii), by failing to collect, verify, and analyze all information and comparable sale data:

i. Sale #1 was not adjusted for a fireplace, was not adjusted for newer construction, minimally adjusted (\$500) for a main level powder room, adjustment for differences in GLA based on \$12/per sq. ft., exposed lower level was not disclosed, paved driveway not disclosed or adjustments made on the grid.

ii. Sale #2 reports an incorrect street name (should be Ridgeview Ct.) and town (should be Sobieski), there is no explanation of the discrepancy between MLS reported GLA of 3,526 sq ft, and report's 2,033 sq ft, no adjustment for a fireplace, minimal adjustment (\$500) for a main level powder room, adjustment for differences in GLA based on \$12/per sq. ft., exposed lower level was not disclosed, paved driveway was not disclosed and a detached 30' x 56' heated shop was not disclosed or adjustment made on the grid.

iii. Sale #3 was not adjusted for a fireplace, not adjusted for a powder room, adjustments for GLA based on \$12/per sq. ft., exposed lower level not disclosed, not adjusted for a security system, surround sound, in-ground pool and spa, and a detached 40' x 50' insulated and heated garage was not disclosed or adjusted for on the grid.

iv. The land value source used in the report is not identified or supported, and costs for the deck, porch, and site improvements are not supported

d. Ethics Rule: Conduct and Competency Rule. Based upon the findings identified at paragraphs 5(a)-(c), above, which demonstrate the Respondent's unfamiliarity with the market, geographic area, and analytical methods at issue here, the Respondent has failed to perform this assignment ethically and competently.

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 paragraph 7 constitutes a violation of:

- a. USPAP Standards Rule 1-1(a), (b), and (c);
- b. USPAP Standards Rule 1-2(a), (e), and (f);
- c. USPAP Standards Rule 1-4(a);
- d. USPAP Standards Rule 1-4(b)(i)(ii)(iii);
- e. USPAP Standards Rule 1-6(a); and

- f. USPAP Ethics Rule: Conduct
- g. Competency Rule.

3. As a result of the above USPAP violations, Mr. Dow 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 HEREBY ORDERED that:

1. The certified residential appraiser certification of Respondent **Gerald C. Dow**, certification # 9-1023, is hereby **SUSPENDED** for a period of SIXTY (60) DAYS, beginning 10 business days after the date of this Order.

2. The certified residential appraiser certification of Respondent **Gerald C. Dow**, certification # 9-1023, is hereby **LIMITED** as follows:

a. Respondent **Gerald C. Dow** shall, within one year of the date of this Order, successfully complete the following courses or seminars offered by the Appraisal Institute, or other similar courses pre-approved by the Board, at his own expense, including taking and passing any exam offered for course or seminar:

- 1. “Advanced Sales Comparison and Cost Approaches” Course (40 hours);
- 2. AND ONE OF THE FOLLOWING SEMINARS:
 - “Liability Management for Residential Appraisers” (7 hours);
 - or
 - “Quality Assurance in Residential Appraisals: Risky Appraisals = Risky Loans” (7 hours).

b. Mr. Dow 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. This educational requirement limitation shall be lifted upon the Department Monitor’s receipt of the full verification of Mr. Dow’s successful completion of the required education, including taking and passing any exam offered.

c. Mr. Dow shall not supervise any other licensed or certified appraisers or appraisers-in-training, and he shall not rely on any trainee, clerical staff and/or office assistant to provide research assistance to adequately document and accurately describe the characteristics of the subject property and/or any comparable sales used in an appraisal. This limitation shall be

lifted one year following the date of successful completion of the required coursework identified in Order paragraph 2(a).

d. Mr. Dow shall be limited to performing appraisals in those regions of Wisconsin where Mr. Dow is a member of said region's Multiple Listing Service ("MLS") as a dues paying Realtor. Mr. Dow shall not perform appraisals of properties located in counties or regions where he is not a member of the applicable MLS, during the pendency of this limitation. This limitation shall be lifted upon successful petition to the Board for removal of the limitation. The earliest any such petition may be filed with the Board is one year from the date of this Order.

3. **Gerald C. Dow** shall, within 24 months of the date of this Order, pay **COSTS** of this matter in the amount of Two Thousand Five hundred Dollars (\$2,500.00).

4. Proof of successful course or seminar completion and payment of costs (made payable to the Wisconsin Department of Regulation and Licensing) shall be mailed, faxed or delivered 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

5. 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 (#9-1023) 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.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:


A Member of the Board

11/10/2010
Date