

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION
JON B. TESSIER,	:	& ORDER
RESPONDENT.	:	ORDER 0000685

Division of Enforcement Case Nos. 09 APP 004 and 10 APP 028

The parties to this matter for the purposes of Wis. Stats. Sec. 227.53 are:

Jon B. Tessier
1620 S. Ashland
Suite 102
Green Bay, WI 54304

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

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Real Estate Appraisers Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Jon B. Tessier (also referred to as "Respondent"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 1620 S. Ashland, Suite 102, Green Bay, WI 54304, and whose date of birth is 09/18/1953, is a Wisconsin licensed appraiser and a certified general appraiser (No. 10-858). The license was first granted on 03/18/1997, and will expire on 12/14/2011.

2. On or about 01/22/2009, the Department received a complaint concerning real property appraisals performed by Tessier at 3094 Mid Valley Drive, De Pere, Wisconsin (the "Mid Valley property"), 3930 Eaton Road, Bellevue, Wisconsin (the "Eaton property"), and 2576 Hwy 41/141, Abrams, Wisconsin (the "Hwy 41/141 property").

3. Investigation of the appraisal of the Hwy 41/141 property, which appraisal was conducted more than six years prior to the filing of the complaint, was impeded by the lack of Respondent's workfile materials. Pursuant to the Uniform Standards of Professional Appraisal Practice (USPAP) Ethics Rule – Record Keeping, Respondent is only required to retain his workfile for a period of five years. As a result, the Hwy 41/141 property appraisal report was not submitted for disciplinary review.

4. Investigation of the complaint's allegations revealed very minor concerns with the Eaton property appraisal and report, which do not merit the imposition of discipline.

5. Investigation and review of the 08/22/2007 appraisal report concerning the Mid Valley property shows violations of the applicable USPAP standards as follows:

- a. USPAP Standards Rules 1-1(a): The use of a story height multiplier is incorrectly employed, and does not comply with "Calculator Method Notes" in Section 10, page 8, of Marshall Valuation Service Manual. The reproduction cost per square foot is, therefore, unsupportable and misleading.
- b. USPAP Standards Rules 1-1(b & c) and 2-1 (a & b): The Mid Valley property street address is specified as 3094 Mid Valley Drive on the report's cover page and the letter of transmittal; however, page 4 (Summary of Salient Facts and Conclusion) reports a street address of 3148 Mid Valley Drive, and page 45 (Summary of Land Sales) reports an address of 3108 Mid Valley Drive.
- c. USPAP Standards Rules 1-1(c) and 2-1(a). The sales comparison grid at page 52 shows only three sales, and indicates no adjustments were made to any of these three sales for location, site conditions, or visibility and access. However, at page 54, the report references seven sales, and indicates that all are at an advantage for location and site conditions. In the Site Conditions section, it further indicates that the Mid Valley property is primarily a long lot, with an additional frontage lot. This site description does not correlate with descriptions at pages 29 and 38, or the map of the property in the addendum. The description appears to describe the 3108 Mid Valley Drive lot to the south of the Mid Valley property.
- d. USPAP Standards Rules 1-1(a & c) and 2-1(a). The Mid Valley property land/building ratio is stated as 23:1 on page 4 of the report, 22:1 on pages 9, 30, and 64, 13:1 on page 28, and 21.5:1 on page 82. It appears that the correct ratio is 13:1.

- e. USPAP Standards Rules 1-1(b), 1-2(g), 1-3(b), 1-4(f) and 2-2(b). At page 39 of the Mid Valley property appraisal report, under “Continued Use, modified,” Respondent writes that “[a] proposed addition is included in this valuation.” However, in “[c]onclusion” on the same page, Respondent states that, “it appears the property is at its highest and best use.” There is no further reference to the “proposed addition” in the report, including the value conclusions, as a hypothetical condition, or as a prospective valuation. This inconsistency affects the reliability of the value conclusions, which appear to relate to the building data as is.

6. On or about 04/22/2010, the Department received a complaint concerning real property appraisals performed by Tessier at 1620 Lawrence Drive, De Pere, Wisconsin (the “Lawrence property”) and 101 Parkside Court, Green Bay, Wisconsin (the “Parkside property”).

7. Investigation of the complaint’s allegations revealed very minor concerns with the Lawrence property appraisal and report, which do not merit the imposition of discipline.

8. Investigation and review of the 05/04/2009 report concerning the Parkside property shows violations of the applicable USPAP standards as follows:

- a. USPAP Ethics Rule – Conduct and Standards Rules 1-1(a & b): The definitions of “market value” and the submarket are vague, misleading, and at times contradictory. The Respondent’s analysis of the market value via the submarket is improper here, since the appraisal concerns a condemnation matter. The report does not indicate marketing times or the exposure period for the “negotiated sales” identified by the Respondent.
- b. USPAP Scope of Work Rule and Standards Rule 1-2(h): The submarket employed by the Respondent in the appraisal report was not identified here.
- c. USPAP Standards Rules 1-1(a): Respondent was aware of and understood the recognized methods and techniques, but failed to properly employ them within his definition of value.
- d. USPAP Standards Rules 1-1(c): the Parkside property zoning is listed as R-1 Single Family Residence at page 27 of the report. The Parkside property zoning is listed as General Agricultural district at page 28 of the report.
- e. USPAP Standards Rules 1-2(c): The report fails to link reasonable exposure time to the concluded value opinion.
- f. USPAP Standards Rules 1-4(a): The comparable sales used in the report do not meet the definition of sales within the “realm” of the market value definition used in the assignment; comparable sales consisted of single family residences and used car lots.

- g. USPAP Standards Rules 2-2: The report is identified solely as a “Full Narrative Report.” An appraiser may use any other label in addition to, but not in place of, the label set forth in Standards Rule 2-2 for the type of report provided.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.
2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).
3. The conduct described above, at paragraphs 5 and 8 of the Findings of Fact, constitutes a violation of the Ethics Rule – Conduct, the Scope of Work Rule, and the following Standards Rules:
 - a. USPAP Standards Rule 1-1(a), (b), and (c);
 - b. USPAP Standards Rule 1-2(c), (g), and (h);
 - c. USPAP Standards Rule 1-3(b);
 - d. USPAP Standards Rule 1-4(a) and (f);
 - e. USPAP Standards Rule 2-1(a) and (b);
 - f. USPAP Standards Rule 2-2; and
 - g. USPAP Standards Rule 2-2(b).
4. As a result of the above USPAP violations, Mr. Tessier 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. Respondent **Jon B. Tessier’s** license and certification No. 10-858 is hereby **LIMITED** as follows:
 - a. Respondent shall, within eighteen months following the date of this Order, successfully complete the following courses or seminars offered by the Appraisal Institute, or other similar courses offered by providers pre-approved by the Department Monitor, at Respondent’s own expense, including taking and passing any exam offered for the course or seminar:
 - i. Eminent Domain and Condemnation (7 hrs); and
 - ii. General Appraiser Market Analysis and Highest and Best Use (30 hrs);

b. Mr. Tessier shall submit proof of completion 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, Wisconsin Department of Regulation and Licensing or similar authority in any state, and also may not be used in future attempts to upgrade his credential in any state.

c. The limitation shall be removed from Respondent's license and Respondent will be granted a full, unrestricted license after satisfying the Board or its designee that he has successfully completed all of the ordered continuing education.

2. Respondent shall pay the Department's costs of this matter in the amount of **\$1,448.00** within one year following the date of this Order.

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
Department of Regulation and Licensing, Division of Enforcement
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 or fails to comply with the ordered continuing education as set forth above, the Respondent's license (#10-858) 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. Case numbers 09 APP 004 and 10 APP 028 are hereby closed.

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

REAL ESTATE APPRAISERS BOARD

By:

Maria L. Dutton
A Member of the Board
MMH

2/23/11
Date