

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE WISCONSIN REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
WILLIAM H. HUGHES, :
RESPONDENT. :
 : **ORDER 0001049**

Division of Enforcement Case No. 10 APP 032

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

William H. Hughes
c/o Northwoods Appraisals
W8291 Danish Settlement Road
Phillips, WI 54333

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

Department of Safety and Professional Services
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 Wisconsin 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, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent William H. Hughes (dob 1/4/1965) is licensed in the State of Wisconsin as a Licensed Appraiser, having license number 04-1631, first issued on 9/23/2003 and current through 12/14/2011. Mr. Hughes' most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W8291 Danish Settlement Road, Phillips, WI 54333.
2. Mr. Hughes has not been previously disciplined by the Board.

3. On or about 6/1/2010, the Department received a complaint concerning an appraisal completed by Mr. Hughes pertaining to property located at 1242 Brandy Lake Road, Woodruff, WI (Subject Property). Mr. Hughes performed the appraisal on 11/15/2007.
4. Mr. Hughes' appraisal of the Subject Property was reviewed by the Division, and it was determined that the appraisal and appraisal report violated the Uniform Standards of Professional Appraisal Practice (USPAP) Rules and Standards Rules (SR) as follows:
 - a. In his appraisal report, Mr. Hughes failed to include a report date. (SR2-2(b)(vi).)
 - b. In his appraisal report, Mr. Hughes stated that he researched the sales history of the subject for the past year and for the past three years. Mr. Hughes failed to provide sufficient analysis to supplement the reporting. (SR1-5; SR2-2(b)(viii).)
 - c. In his appraisal report, Mr. Hughes failed to analyze the Subject Property's lake attributes, the impact of water frontage on the value of the Subject property or the properties in the neighborhood. Mr. Hughes failed to correlate his "neighborhood overview" to the unique attributes of the subject and its lake location. (SR1-1(a,b,c); SR1-2(e); SR1-3(a); SR1-4(g); SR2-1(b); SR2-2(b)(iii); Competency Rule.)
 - d. In his appraisal report, Mr. Hughes did not adequately analyze the buying market for this property, which is greatly influenced by buyers seeking vacation properties. Such buyers may have little knowledge of the local market and tend to overpay for real estate in smaller markets; Mr. Hughes does not describe this regional buyer or analyze and report the typical impact of out-of-town buyers on property values. (SR1-1(a,b,c); SR1-2(e)(i).)
 - e. In his appraisal report, Mr. Hughes failed to provide a plat map, site dimensions, or the linear feet of water frontage. Mr. Hughes reported the site size to be .88 acres, when it is actually .97 acres and has 155 feet of Brandy Lake frontage. The site's lake frontage is wider than most of the surrounding parcels, and therefore more valuable, but Mr. Hughes did not disclose this information in the site description. Mr. Hughes failed to analyze the Subject Property's lake frontage and its effect on the value of the whole parcel. (SR1-2(e); SR2-2(b)(iii).)
 - f. In his appraisal report, Mr. Hughes reported the Subject Property's municipal zoning as "AP-All Purpose." However, the subject improvements appear to be located in the part of the parcel zoned GB (general business). Mr. Hughes also failed to report or analyze the Subject Property's Shoreland Zoning. (SR1-2(e)-(i).)
 - g. In his appraisal report, Mr. Hughes used an unacceptable appraisal technique and incorrectly calculated the gross living area (GLA) by including below-grade finished living area when developing the market approach. The appraisal represented the Subject Property's GLA as 2,856 square feet when it was 1,428 square feet. Mr. Hughes used the same unacceptable technique when calculating the GLA for all comparable sales (added below-grade living area to above-grade GLA). This is not an accepted appraisal practice or permitted by the American National Standard for Single Family Resident Buildings (ANSI) or Fannie Mae guidelines, which are

commonly accepted standards by Mr. Hughes's peers and regular clients. Inclusion of below grade living area in GLA is misleading to the intended user. (SR2-2(b)(iii).)

- h. In his appraisal report, Mr. Hughes reported the effective age (and calculated depreciation in the cost approach) as 2 years. The Subject Property's actual age is 9 years. The improvements are rated as average and Mr. Hughes did not report any updates or upgrades to the home since its construction. The lower depreciation in the cost approach inflates the cost approach value conclusion and creates a misleading appraisal report. Text in the "condition" section of the Uniform Residential Appraisal Report (URAR) page 1 did not meet the intent of the form. (SR1-4(b); SR2-2(b)(iii).)
 - i. In his appraisal report, Mr. Hughes incorrectly checked "reproduction" instead of "replacement." Mr. Hughes cites Marshall & Swift as the source of cost data, but uses a rating (A-1) that is not employed by any commonly utilized cost data service. There is no Marshall & Swift printout or copy in the work file. (SR1-1(a,b,c); SR1-4(b)(i); SR2-2(b)(ix).)
 - j. In his appraisal report, many errors appear in the sales grid. For all five comparable sales, the distance reported as "proximity to subject" is incorrect and the listed value is much shorter than the actual distance. The appraiser incorrectly calculated the GLA of all five comparable sales by including below-grade living area. For Comparable #1, the street number is incorrectly reported (it should be 1785, not 1725). For Comparable #2, the site size is incorrectly reported (it should be 1.5 acres, not .62 acres). Also, the GLA is overstated by more than 600 square feet. For Comparable #3, the street number is incorrectly reported (should be 8895, not 8859). Also, the actual age is 22 years, not 10 years; the lot size is .45 acres, not .75 acres; and the GLA is overstated by 1,232 square feet. For Comparable #4, the GLA is overstated by 1,180 square feet. For Comparable #5, the GLA is overstated by 1,248 square feet. (SR1-1(a,b,c); SR1-4(a); SR2-2(b)(ix).)
 - k. In his appraisal report, Mr. Hughes made a negative adjustment to Comparable #1 site because he incorrectly reported the subject size. All comparables actually have inferior lake frontage; therefore Mr. Hughes should have made positive adjustments instead of negative adjustments. Mr. Hughes made a \$69,430 location adjustment for Comparable #4, but his explanation is boilerplate text and fails to explain the large site adjustment. Mr. Hughes also makes an adjustment of \$103,240 for Comparable #5, but does not support it with market data or explain why the location adjustment is necessary. Mr. Hughes made an adjustment of \$5,869 to Comparable #1 and Comparable #2, but failed to provide a description of amenities. (SR1-1(a,b,c); SR1-4(a); SR2-2(b)(ix).)
5. During the course of the investigation, Respondent offered to complete and did successfully complete the Basic Appraisal Principles (30 hours) and Basic Appraisal Procedures (30 hours) courses prior to the effective date of the Order to proactively address the Board's concerns. Respondent also provided a signed statement agreeing not to perform any appraisals until such education was completed.

CONCLUSIONS OF LAW

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

1. By the conduct described in Finding of Fact 4.a., Mr. Hughes violated USPAP SR2-2(b)(vi) by failing to state the date of the report.
2. By the conduct described in Finding of Fact 4.b., Mr. Hughes violated USPAP SR1-5 by failing to analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and failing to analyze all sales of the subject property that occurred within the three years prior to the effective date of the appraisal.
3. By the conduct described in Findings of Fact 4.c-4.d and 4.i-4.k, Mr. Hughes violated USPAP SR1-1(a,b,c) by failing to be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal; not commit a substantial error of omission or commission that significantly affects an appraisal; and not render appraisal services in a careless or negligent manner, such as by making a series of error that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results in developing a real property appraisal.
4. By the conduct described in Findings of Fact 4.c.-4.f., Mr. Hughes violated USPAP SR1-2(e) by failing to identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal.
5. By the conduct described in Finding of Fact 4.c., Mr. Hughes violated USPAP SR1-3(a) failing to identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends when necessary for credible assignment results in developing a market value opinion.
6. By the conduct described in Finding of Fact 4.c., Mr. Hughes violated USPAP SR1-4(g) by failing to analyze the effect on value of non-real property items included in the appraisal such as personal property, trade fixtures, or intangible items.
7. By the conduct described in Finding of Fact 4.c., Mr. Hughes violated USPAP SR2-1(b) by failing to create a written appraisal report that contains sufficient information to enable the intended users of the appraisal to understand the report properly.
8. By the conduct described in Findings of Fact 4.c, 4.e, 4.g, and 4.h, Mr. Hughes violated USPAP SR2-2(b)(iii) by failing to summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment.

9. By the conduct described in Findings of Fact 4.h. and 4.i., Mr. Hughes violated USPAP SR1-4(b) by failing to develop an opinion of site value by an appropriate appraisal method or technique; analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation) where a cost approach is necessary for credible results.
10. By the conduct described in Findings of Fact 4.i.-4.k., Mr. Hughes violated USPAP SR2-2(b)(ix) by failing to state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal, and properly summarize the support and rationale for that opinion.
11. By the conduct described in Findings of Fact 4.j. and 4.k., Mr. Hughes violated USPAP SR1-4(a) by failing to properly analyze such comparable sales data as are available to indicate a value conclusion when a sales comparison approach is necessary for credible assignment results.
12. By the conduct described in Finding of Fact 4.b, Mr. Hughes violated USPAP SR2-2(b)(viii) by failing to properly summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions.
13. By the conduct described in Findings of Fact 4.a.-4.k., Mr. Hughes violated the USPAP Competency Rule by failing to properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently prior to accepting the assignment, and by failing to disclose the lack of knowledge and/or experience to the client before accepting the assignment.
14. As a result of the above violations, Mr. Hughes has violated Wis. Admin. Code §§ RL 86.01(1) and (2), thereby subjecting himself to discipline pursuant to Wis. Stat. §§ 458.26(3)(b), (c) and (i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. Respondent William H. Hughes is hereby REPRIMANDED.
3. The Licensed Appraiser credential issued to William H. Hughes (license number 4-1631) is hereby LIMITED as follows:
 - a. In addition to the Basic Appraisal Principles (30 hours) and Basic Appraisal Procedures (30 hours) courses that he has already completed as described in paragraph 5 of the Findings of Fact, William H. Hughes shall, within one year of the date of this Order, successfully complete a course addressing the topic of appraisal of waterfront property. Said course shall be pre-approved by the

Board's monitoring liaison, and completion of the course shall include taking and passing any exam offered for the course. In the event that Respondent and the Board's monitoring liaison cannot identify a course specifically addressing the appraisal of waterfront property, an alternative course may be substituted upon pre-approval by the Board's Monitoring Liaison. If necessary, the Board's monitoring liaison shall be authorized to extend the one year time limit to complete the course.

b. William H. Hughes shall submit proof of completion of the course required at paragraph 3(a) of the Order in the form of verification from the institution providing the education to the Department Monitor at the address stated below.

c. None of the education completed pursuant to this Order, and none of the credits earned by Respondent's completion of the Basic Appraisal Principles (30 hours) and Basic Appraisal Procedures (30 hours) courses during the course of this investigation, may be used to satisfy any continuing education requirements that have been or may be instituted by the Board, Wisconsin Department of Safety and Professional Services or similar authority in any state, and also may not be used in future attempts to upgrade a credential in any state.

d. This 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 Respondent has successfully completed all of the ordered education.

4. William H. Hughes shall, within 120 days of the date of this Order, pay COSTS of this matter in the amount of \$765.00.
5. Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be mailed, faxed or delivered by Respondent to the Department Monitor at the address below:

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

6. 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 set forth above, Respondent's license (license number 4-1631) 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.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:  _____
A Member of the Board

8/24/2011
Date