

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

DENNIS A. LURA,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0001540

Division of Enforcement Case No. 11 APP 031

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

Dennis A. Lura
P.O. Box 2019
Kenosha, WI 53141

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

Division of Enforcement
Department of Safety and Professional Services
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 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 Dennis A. Lura (dob 03/06/1951) is licensed in the State of Wisconsin as a Licensed Appraiser, having license number 4-1106, first issued on 03/10/1998 and current through 12/14/2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is P.O. Box 2019, Kenosha, WI 53141.

2. On or about 04/17/2011, Respondent performed an appraisal of a residential property located at 8956 22nd Avenue, Kenosha, WI 53143.

3. Respondent's appraisal was reviewed by the Division of Enforcement and it was determined that the appraisal and appraisal report violated the Uniform Standards of Professional Appraisal Practice (USPAP) Rules and/or Standards Rules (SR) as follows:

- a. Although the report date and the effective date of the appraisal are 04/17/2011, documents in the work file indicate that the report was issued after 04/17/2011. [SR 2-2(b)(vi)]
- b. There are no hypothetical conditions but the improvements are noted as "improved" and "proposed" on page one of the report. Photos in the addenda do not correctly match the address labels of some of the comparable sales. There is a significant difference between Respondent's reported Gross Living Area and the Town of Salem assessor's Gross Living Area and there are significant variations between the assessor's building sketch and Respondent's sketch. [SR 1-1(b)]
- c. Although the subject is 76 years old, Respondent indicated that the subject improvements are "new" in the sales grid. Respondent's lack of competency is demonstrated by the statement that the subject is "well maintained with no physical depreciation.....noted." There is no information about the age or condition of the siding, roof shingles, windows, foundation, electrical, plumbing or other depreciating building components, which must exhibit some form of physical depreciation after 76 years. [SR 1-1(b); SR 2-1(a); Competency Rule; Conduct Section of the Ethics Rule]
- d. Respondent did not complete the cost approach correctly. The site value is unsupported and represents assessed value, not market value. Respondent cites Marshall and Swift as the cost data source but cost data in the report do not reflect the applicable data in Marshall and Swift. Respondent has misrepresented the source of his cost data and failed to complete the scope of work necessary to develop a credible opinion of the site value. The basement calculation is missing, there is no additional itemization of amenities such as fireplace or central air, and the garage unit cost is not credible. Respondent states on page one that external depreciation is applicable but he fails to make a deduction for this deficiency in the cost approach. [SR 1-1(a,b); Competency Rule]
- e. Respondent selected inappropriate comparable sales. The subject was built in 1935 but the original five comparable sales are either 6 or 8 years old. Comparing the subject to much newer homes resulted in significant over-valuation as no adjustment is made for the subject's inferior age and functional utility. After a request by the lender for additional analysis, Respondent added four more sales, one of which (Sale 7 – 87 years old) is similar to the subject's age and has 1.5 baths; however, Sale 7's adjusted value is \$285,000 and does not support R's value conclusion of \$350,000. Respondent's Sale 9 is older, like the subject, but is an inappropriate comparable due to the influence of Sale 9's location with a view of Lake

Michigan. With Sale 9's adjusted sale price at \$451,500, the inclusion of this sale is misleading. [SR 1-1(a,b,c); Competency Rule; Conduct Section of Ethics Rule; Scope of Work Rule]

- f. The nine selected comparable sales reflect sale prices from \$275,000 to \$459,000. This extremely broad range does not reflect typical buyer motivation as few potential home buyers have a budget that will accommodate a variance of nearly \$200,000 in a home purchase. The selected sales are unlikely to appeal to the same buyer. [SR 1-1(a,b,c); Competency Rule; Conduct Section of Ethics Rule]
- g. MLS contains several similar comparable sales that should have been analyzed. There were three sales that should have been analyzed in this appraisal and were overlooked because the sale prices were more than \$100,000 less than Respondent's value conclusion. [Scope of Work Rule]
- h. Respondent's sales comparison reconciliation is boilerplate and provides no explanation for the selection of comparable sales other than to say that they were chosen due to the "absolute lack of similar sales in the market area." The reconciliation provides no insight into the logic and rationale leading to the \$350,000 value conclusion. The range of final adjusted values of the nine comparable sales is extremely broad (\$281,000 to \$451,500) and is not adequately reconciled into a single value conclusion. The selected sales and the adjustments to the comparable sales all serve to inflate the value of the subject property. [SR 1-6(a); SR 2-1(b)]
- i. The subject is a 76-year old home with a recent living area expansion and a new 3-car attached garage. The subject has an additional 4-car detached garage despite its location in a mostly suburban area. The 4-car garage is an over-improvement and the subject's market value is diminished in this location because few suburban home buyers will pay extra for capacity to store more than 3 cars. Respondent has made an unsupported \$10,000 or \$12,500 adjustment to all nine comparable sales reflecting "market value" of the additional garage. [SR 1-1(a,b,c); Competency Rule; Scope of Work Rule]
- j. Current market expectation is that a new home will have at least two full bathrooms. The subject has one and a half bathrooms. This incurable functional deficiency is not addressed by Respondent in his report, where he states there is "no functional obsolescence noted." Six out of nine comparable sales have at least 2.5 baths. Respondent incorrectly reported the Sale 2 bathroom count (per MLS) and makes \$2,000 negative adjustments for a full bathroom in a newer home across the grid. This practice emphasizes Respondent's lack of market analysis, demonstrates his effort to inflate the value conclusion (by making a minimal bath adjustment not reflective of market value), and fails to support the subject's marketability. This is not a credible adjustment and the comparable sales do not reflect the effect on value

of the subject's functional deficiencies. [SR 1-1(a,b,c); SR 1-4(a); Competency Rule; Scope of Work Rule]

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 into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in Findings of Fact 3.c, 3.e. and 3.f., Respondent violated the Conduct section of the Ethics Rule by using or communicating a report that is known by the appraiser to be misleading or fraudulent and by performing an assignment in a grossly negligent manner.

3. By the conduct described in Findings of Fact 3.c., 3.d., 3.e., 3.f., 3.i. and 3.j., Respondent violated the USPAP Competency Rule by failing to properly identify the problem to be addressed and failing to have the knowledge and experience to complete the assignment competently.

4. By the conduct described in Findings of Fact 3.e., 3.g., 3.i. and 3.j., Respondent violated the USPAP Scope of Work Rule by failing to include in the scope of work the research and analyses that are necessary to develop credible assignment results and failing to include in the report sufficient information to allow intended users to understand the scope of work performed.

5. By the conduct described in Findings of Fact 3.d, 3.e., 3.f., 3.i. and 3.j., Respondent violated USPAP SR 1-1(a) by failing to be aware of, understand and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.

6. By the conduct described in Findings of Fact 3.b., 3.c., 3.d., 3.e., 3.f., 3.i and 3.j., Respondent violated USPAP SR 1-1(b) by committing a substantial error of omission or commission that significantly affects an appraisal.

7. By the conduct described in Findings of Fact 3.e., 3.f., 3.i. and 3.j., Respondent violated USPAP SR 1-1(c) by rendering appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

8. By the conduct described in Finding of Fact 3.j., Respondent violated USPAP SR 1-4(a) by failing to analyze such comparable sales data as are available to indicate a value conclusion when a sales comparison approach is necessary for credible assignment results.

9. By the conduct described in Finding of Fact 3.h., Respondent violated USPAP SR 1-6(a) by failing to reconcile the quality and quantity of data available and analyzed within the approaches used.

10. By the conduct described in Finding of Fact 3.c., Respondent violated USPAP SR 2-1(a) by failing to clearly and accurately set forth the appraisal in a manner that will not be misleading.

11. By the conduct described in Finding of Fact 3.h., Respondent violated USPAP SR 2-1(b) by failing to include sufficient information to enable the intended users of the appraisal to understand the report properly.

12. By the conduct described in Finding of Fact 3.a., Respondent violated USPAP SR 2-2(b)(vi) by failing to state correctly the date of the report.

13. As a result of the above violations, Respondent Dennis A. Lura has violated Wis. Admin. Code §§ RL (now SPS) 86.01(1) and (2), and is therefore subject 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 Dennis A. Lura is hereby REPRIMANDED.
3. The Licensed Appraiser license issued to Dennis A. Lura (license number 4-1106) is hereby LIMITED as follows:
 - a. Within one year of the date of this Order, Respondent Dennis A. Lura shall retake and pass the national examination for licensed appraisers. Respondent shall submit proof of retaking and passing the exam to the Department Monitor at the address in paragraph 5 below.
 - b. Within one year of the date of this Order, Respondent Dennis A Lura shall successfully complete 60 hours of education consisting of the following courses offered by the Appraisal Institute, or equivalent courses offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses:
 - i. USPAP course (15 hours); and
 - ii. 45 hours from the following:
 1. Residential Sales Comparison & Income Approaches (30 hours); and
 2. Residential Market Analysis & Highest and Best Use (15 hours); or
 3. Residential Site Valuation & Cost Approach (15 hours).

c. The courses listed above shall be taken in person in a classroom setting unless an online course is approved in advance by the Board's monitoring liaison or her designee.

d. Respondent shall submit proof of completion in the form of verification from the institution providing the education to the address stated in paragraph 5 below. None of the education completed pursuant to this requirement 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.

e. 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 and has retaken and passed the national examination for licensed appraisers.

4. Within 90 days of the date of this Order, Dennis A. Lura shall pay COSTS of this matter in the amount of \$850.

5. Proof of successful course completion and passing the national examination 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 ordered or fails to comply with the ordered education as set forth above, Respondent's license (no. 4-1106) 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 completion of the education.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
A Member of the Board

5/9/2012
Date