

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

RICHARD R. TIELENS,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0002456**
:

Division of Legal Services and Compliance¹ Case No. 12 APP 038

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

Richard R. Tielens
1321 Robin Ln.
Stevens Point, WI 54481

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

Division of Legal Services and Compliance
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 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 Richard R. Tielens (dob May 18, 1951) is licensed in the State of Wisconsin as a Certified Residential Appraiser and Licensed Appraiser, having license number 955-9, first issued on March 6, 1995 and current through December 14, 2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1321 Robin Lane, Stevens Point, Wisconsin 54481.

2. Respondent has not been previously disciplined by the Board.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

3. Respondent performed an appraisal of commercial property located at 2417 Post Road in Stevens Point, Wisconsin. The effective date of the appraisal was December 15, 2011. There was no report date in the appraisal report.

4. On or about March 6, 2012, the Department received a complaint alleging, in part, that the subject appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP). Division of Legal Services and Compliance Case Number 12 APP 038 was subsequently opened for investigation.

5. Respondent's appraisal was reviewed by the Division of Legal Services and Compliance and it was determined that the appraisal and appraisal report violated USPAP and/or Standards Rules (SR) as follows:

- a. failed to state the report date. (SR 2-2(b)(vi).)
- b. failed to identify the report format. (SR 2-2.)
- c. incorrectly identified the property interest as fee simple instead of leased fee. (SR 1-1(b), SR 1-2(e)(ii), SR 2-2(b)(iv).)
- d. failed to identify the property type as a multi-tenant office building. (SR 1-2(e)(i), 2-1(b).)
- e. failed to identify the market conditions affecting multi-tenant office buildings. (SR 1-3(a).)
- f. incorrectly calculated the subject property's net operating income resulting in a valuation error of more than \$335,000 and incorrectly calculated Comparable Sale 3's price per square foot as \$33.94 when the correct price per square foot is \$80.77. (SR 1-1(b,c).)
- g. failed to include a statement showing that the appraiser researched any sales or transfers of the subject property during the prior three years. (SR 1-5(b).)
- h. failed to analyze the subject property's listing history. (SR 1-1(b), SR 1-2(h), Scope of Work Rule.)
- i. failed to analyze the difference between the appraiser's value opinion and the accepted offer to purchase price. (SR 1-6(a).)
- j. failed to analyze the subject property's leases. (SR 1-2(e)(iv), SR 1-4(d), Scope of Work Rule.)
- k. failed to verify and support the appraiser's opinion of the subject property's market rent. (SR 1-4.)
- l. failed to analyze the subject property's zoning. (SR 1-3(a).)

- m. failed to analyze highest and best use. (SR 1-3(b).)
- n. failed to support the opinion of the capitalization rate in the income approach. (SR 2-1(b), SR 2-2(b)(viii).)
- o. failed to investigate or analyze the subject property's site characteristics. (SR 1-2(e)(i).)
- p. failed to support adjustments in the sales grid; adjustments that were in the grid are not credible. (SR 2-2(b)(viii).)
- q. failed to include the appropriate signed certification. (SR 2-3.)

6. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 the Findings of Fact, Respondent violated USPAP SR 1 by failing to correctly complete research and analyses necessary to produce a credible appraisal.

3. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-1(a,b,c) by:

- a. failing to be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;
- b. committing a substantial error of omission or commission that significantly affects an appraisal; and
- c. 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.

4. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-2(e)(i,ii,iv) 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, including:

- a. its physical, legal, and economic attributes;
- b. the real property interest to be valued; and
- c. any known leases.

5. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-2(h) by failing to determine the scope of work necessary to produce credible assignment results in accordance with the Scope of Work Rule.

6. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-3(a,b) by failing to:

- a. identify and analyze the effect on use and value of existing land use regulations and market area trends; and
- b. develop an opinion of the highest and best use of the real estate when necessary for credible assignment results in developing a market value opinion.

7. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-4 by failing to collect, verify, and analyze all information necessary for credible assignment results.

8. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-4(d) by failing to analyze the effect on value, if any, of the terms and conditions of the lease(s) when developing an opinion of the value of a leased fee estate.

9. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-5(b) by failing to analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal when developing a market value opinion.

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

11. By the conduct described in the Findings of Fact, 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 the Findings of Fact, Respondent violated USPAP SR 2-2 by failing to prominently state which appraisal report is used.

13. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-2(b)(iv,vi,viii) by failing to:

- a. state the real property interest appraised;
- b. state the date of the report; and
- c. summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions.

14. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-3 by failing to include an appropriate signed certification in the appraisal report.

15. By the conduct described in the Findings of Fact, Respondent violated the Conduct Section of the Ethics Rule by performing an assignment in a grossly negligent manner.

16. By the conduct described in the Findings of Fact, Respondent violated the Competency Rule by failing to be competent to perform the assignment.

17. By the conduct described in the Findings of Fact, Respondent violated the Scope of Work Rule by failing to include the research and analyses necessary to develop credible assignment results.

18. As a result of the above violations, Respondent 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

1. The attached Stipulation is accepted.
2. Respondent Richard R. Tielens is REPRIMANDED.
3. The Certified Residential Appraiser and Licensed Appraiser license issued to Richard R. Tielens (license number 955-9) is LIMITED as follows:
 - a. Within 60 days of the date of this Order, Respondent shall successfully complete 15 hours of education consisting of the following course offered by the Appraisal Institute, or equivalent course(s) offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course(s):
 - i. USPAP (15 hours).
 - b. The course listed above may be taken online or in person in a classroom setting.
 - c. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated 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 or the Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
 - d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.

4. The Certified Residential Appraiser and Licensed Appraiser license issued to Richard R. Tielens (license number 955-9) is further LIMITED as follows: Respondent shall not train or supervise any credentialed or uncredentialed appraiser for six months from the date of this Order.

5. The Certified Residential Appraiser and Licensed Appraiser license issued to Richard R. Tielens (license number 955-9) is further LIMITED as follows:

a. Respondent shall not appraise any commercial property from the date of this Order without direct supervision of a certified general appraiser who shall co-sign Respondent's appraiser certification. This limitation shall be removed from Respondent's license to permit Respondent to perform appraisals of commercial property only as permitted by his Certified Residential Appraiser and Licensed Appraiser license after satisfying the Board or its designee that Respondent has successfully completed 30 hours of additional education. That additional education shall consist of the following course(s) offered by the Appraisal Institute, or equivalent course(s) offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course(s):

- i. General Appraiser Income Approach Part 1 (30 hours); or
- ii. General Appraiser Sales Comparison Approach (30 hours); or
- iii. General Appraiser Market Analysis and Highest & Best Use (30 hours).

b. The course(s) listed above shall be taken in person in a classroom setting.

c. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated 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 or the Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

6. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,048.00.

7. Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935

Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

8. 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. 955-9) 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.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:


A Member of the Board

5/23/2013
Date