

BEFORE THE IOWA
REAL ESTATE APPRAISER EXAMINING BOARD

IN THE MATTER OF THE)	DIA DOCKET No.98DOCRE003
COMPLAINT AND STATEMENT)	
OF CHARGES AGAINST:)	Case No. 96-23
)	
RICHARD K. ANDERSON)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
Respondent)	AND DECISION
)	and
LICENSE NO. [REDACTED])	DENIAL OF APPLICATION

TO: RICHARD K. ANDERSON

On or about June 17, 1998, a Complaint was issued concerning Richard A. Anderson (Respondent) by the Executive Secretary of the Iowa Real Estate Appraiser Examining Board (Board). The Complaint alleged, in three counts and *inter alia*, that the Respondent had violated the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), had failed to exercise due diligence, and demonstrated negligence and incompetence in the preparation and communication of four appraisals. As of June 15, 1998, the Respondent's application to renew and upgrade his existing State License was pending. The Respondent was notified via certified letter of the denial of the application, and based the denial on the same operative facts as the Complaint. See: Exhibit F, dated July 14, 1998. The Notice of Hearing in turn issued July 30, 1998.

The Complaint and the Board's denial of the application came on for hearing before the full Board on the 2d day of September, 1998, at approximately 9:30 o'clock a.m. in the conference room of the Department of Commerce offices in Ankeny. The Respondent personally appeared, *pro se*. The public interest was represented by Assistant Iowa Attorney General Pamela Griebel. The hearing was open to the public at the Respondent's direction. The hearing was conducted before the full Board: Nancy M. Larson, Chairperson; Theresa H. Lewis, Vice Chair; Jack Seuntjens; Richard Bruce; Gary J. Johnson; Lil M. Perry and L. Craig Harris. Also present were William Schroeder, Executive Secretary to the Board, and other members of the Board staff. Alan Hummel participated as a witness in his capacity as an investigative consultant to the Board. James R. Axt, administrative law judge of the Iowa Department of Inspections and Appeals, presided and was instructed to prepare the Decision of the Board.

The Board, having heard the evidence and arguments of the parties, having taken official notice of documents in the administrative file, and after deliberating in closed session on the date of the hearing, enters the following:

THE RECORD

The record consists of the administrative file maintained by the Board, official notice of which was taken at the commencement of the hearing, as well as the State's Exhibits lettered A through V, inclusive and Respondent's numbered exhibits 1 through 8, inclusive. The majority of exhibits were exchanged during a pre-hearing conference conducted by administrative law judge Margaret LaMarche on August 27, 1998. Additional exhibits were admitted during the course of the hearing by mutual consent of the parties. The disciplinary matters and the denial of a license renewal upgrade are consolidated in the hearing and the record.

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After a written complaint was filed with the Board, the Respondent entered into a Consent Agreement during May, 1997. See: Exhibit C. Pursuant to this agreement, the Respondent completed forty-five hours of educational courses, which were also credited towards the Respondent's continuing education requirements. Thirty hours of the total were proscribed to pertain to the income, sales comparison and cost appraisal approaches. The Respondent's educational plan projected course completion in October, and Winter [term], 1997. The disciplinary action in this contested case is premised on five appraisals of four parcels. The appraisals will be discussed on a *seriatim* basis. Written complaints from the public were received by the Board concerning all of the subject parcels.

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The appraisal of Parcel I, located at 150--33rd Avenue in Marion, Iowa, is dated July 22, 1997 and appears as Exhibit I. A complaining party contacted the Board and alleged the appraisal result was ten to fifteen thousand dollars too high, as the Respondent utilized comparables two to three miles distant. Recent comparables that were in the immediate locale were provided by the complaining party. The State's witness, Alan Hummel has served as a consultant to the Board since 1993 and received his certification as an appraiser in 1992. Mr. Hummel is an active practitioner and reviews approximately one hundred appraisals per year as a consultant. The review process is a "desk review," without independent verification of comparable sales nor inspection. Thus, the review focuses on errors and omissions clear on the face of each appraisal. Mr. Hummel's review identified several shortcomings:

- a) The appraisal did not set forth the purpose of the appraisal, the identity of the client, nor its intended use.
- b) On page 4, there is no information and no explanation as to the methodology of site valuation.

c) There are numerical inconsistencies in the appraisal: physical depreciation is estimated at 10%; a 15% figure is used in the calculation of value.

d) The Respondent used comparables over two miles away. If immediate and proximate sales are not available, under the sales-comparison approach, this is an indicator that subject area/neighborhood lacks marketability. Close and immediate comparables were evident in the attachments to the complaint. The range of the immediate comparables was from the mid-\$70,000's to the mid-\$90,000's. The distant comparables actually used by the Respondent ranged from the mid-\$90,000's to \$120,000. To the reviewer, this state of affairs raised the question of advocacy, as the appraisal apparently over-valued the subject property, and was based on data outside the range of the reasonable.

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The Respondent prepared two separate appraisals of this subject rural acreage property located near Monticello at 22581 Campfire Road. The first, Exhibit M, was prepared May 8, 1997 for construction financing. The second, Exhibit L, was prepared February 22, 1998 for refinancing by the same owner. The complaining party, also an appraiser, raised the issue of the Respondent's apparent advocacy: "The total appraisal is misrepresentation and fraud and if the [secondary mortgage] company that purchased this loan ever has a review appraisal on this and finds out that comparable 4...is not a comparable but rather a manufactured sale for the sole purpose of obtaining a higher value, then the bank very likely could be in jeopardy to buy back this loan." See: Exhibit K. The consultant-reviewer compared both appraisals, and on a "desk review" basis, identified several shortcomings:

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The Board does not regard and construe the Respondent's factual explanation as mitigating. Part of the "boiler-plate" of the Respondent's Windows appraisal software is identical in each appraisal as to the "MULTI-PURPOSE SUPPLEMENTAL ADDENDUM," and "APPRAISER'S CERTIFICATION." Those disclaimers state: "EXTENT OF THE APPRAISAL PROCESS....The appraisal is based on information gathered by the appraiser from public records...and comparable sales within the subject market area..." ADDITIONAL CERTIFICATION[.] The appraiser certifies and agrees that: (1) The analysis, opinions and conclusions were developed, and this report was prepared in conformity with the...('USPAP')....STATEMENT OF LIMITING CONDITIONS.... 7. The appraiser obtained the information, estimates and opinions that were in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct....APPRAISER'S CERTIFICATION: The appraiser certifies and agrees that: 1. I have researched the subject market and have selected a minimum of three comparable sales of properties most similar and proximate to the subject property... 7. I have performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice... that were in place as of the effective date of this appraisal....[upper case in original, emphasis added]" See: States Exhibits L, at pages 19-22, and M, at pages 18-21. Mr. Hummel regarded this incident as a "pretty serious matter" in and of itself.

b) With reference to the square footage of the subject premises, the '98 appraisal indicates an area of 4,745 SqFt; the '97 indicates 3,452 SqFt. The respondent apparently included second-floor open-areas, i.e., cathedral ceiling or similar open spaces in his most recent calculation of the floor area. This is a gross overstatement and misrepresentation of major import.

c) There are recurring and numerous, blatant errors and omissions: the site-value determination is not stated nor explained, no value is given for site improvements, bath and bedroom count differ between the building sketches and the analysis.

d) There are numerous inconsistencies which undermine the credibility and probative value of the reports for the ultimate user(s). As an opening premise, the Respondent states he is forced to consider the Iowa City and Cedar Rapids metro areas, as there were no sales in rural Monticello and Jones County. The Respondent concluded there was no detriment to the location of the subject premises, due to expressway improvements, projected highway projects, the market appeal of rural properties, and the normal and expected commuting time in other geographic areas of the country. In the following paragraph, the Respondent makes a site adjustment of \$500.00 per travel minute [\$15,000.00 downward total

adjustment], entirely contradicting his immediate and previous analysis. See: Exhibit L at page 7. The Respondent referred to this adjustment and stated: "I know that varied from the way to do it." Then, this dollar per commuting minute figure is not utilized in the numerical grid. Id., at page 5. In the '97 appraisal, a \$50,000.00 site adjustment was made with out reason or explanation stated, for three comparables. See: Exhibit M, at page 3.

PARCEL III

The appraisal of Parcel III, located at 901--1st Avenue, North in Mount Vernon is dated August 15, 1997 and appears in the record as Exhibit Q. The subject premises is a residential rental four-plex. Here, the Respondent apparently placed an emphasis on the income method, that fair market value is a function of the rental income potential. Again, several shortcomings were identified:

a) Given this approach, the derivation of the fair rental value is pivotal and of critical importance. Here, the Respondent states an indicated rental of \$625/unit, the operating income/gross monthly rent of \$2,400.00, [thus \$600.00 per unit]; then concludes there would be a gross annual income of \$26,400 [thus \$550.00 per unit]. The inconsistencies for this item of market rent are blatant. The indicated gross rent multipliers range from 90% to 100%. The 100% figure was utilized, without explanation. See: Exhibit P at pages 4-5.

b) There were several omissions: the Respondent did not specifically state the appraisal option utilized, did not identify the intended use and user(s), nor the purpose of the appraisal.

c) The subject premises were initially presented as an existing complex, however, "year built" was specified as "not yet." Id. It would not be possible for the user to identify the stage of construction or the degree of completion of this complex.

d) The Respondent mis-stated the zoning parameters of the Mount Vernon zoning ordinances, as exclusively residential. Id., at page 1.

PARCEL IV

The fourth and final parcel is a single family residence located at 1314 "K" Avenue, NE in Cedar Rapids. The appraisal is dated January 25, 1998 and appears in the record as Exhibit S. Here, the complaining party was a fellow-appraiser, with the SRA [senior real estate appraiser] designation. The complaint characterized the appraisal as a "...general picture of non-descriptiveness and incompetency." See: Exhibit R. This appraisal was found to be inadequate in several particulars:

a) The subject residence is indicated as eighty-two years old and

also as having no functional and external depreciation. The Board finds that this state of affairs is highly unlikely and incredible.

b) Again, the Respondent failed to identify the appraisal option used, the purpose of the appraisal, and its intended use.

c) The Respondent indicated that the subject property had central air conditioning on the grid, however, in the sales-comparison analysis, indicated no central air.

As fact-finders herein, the practicing appraiser members of the Board concluded there were apparent common deficiencies in the Respondent's work product:

1. The appraisals are fraught with inconsistencies, and careless errors in sentence structure, arithmetic, and attention to detail.

2. On an overall basis, the reports are lacking as to enunciated methodology and analysis; conclusions are not developed and lack justification.

3. The Respondent was questioned by individual Board members. Even after forty-five hours of continuing education, the Board determined that the Respondent did not, at the time of the hearing, have a basic, rudimentary understanding of depreciation, effective age, and remaining economic life, as well as the intended use and user(s) of a report.

The Respondent testified in his own behalf. A testimonial was presented from a lender, Exhibit 1. The Respondent conceded that he did not proof read his reports in sufficient detail, and suggested that he needed to: "...slow down; ...work with some of these issues [and] mistakes I've made."

CONCLUSIONS OF LAW

Pursuant to the *Iowa Voluntary Appraisal Standards and Appraiser Certification Law*, Chapter 543D of the Iowa Code, certification requirements shall require a demonstration that the applicant has a working knowledge of current appraisal theories, practices and techniques to assure a high degree of service and protection to the public. See: Iowa Code section 543D.5(3).

Iowa Code sections 543D.17(1)(d) and 543D.18(1) provide, in relevant part:

543D.17 Disciplinary proceedings.

1. The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in

accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend the rights of a holder or otherwise discipline a holder for violation of a provisions of this chapter, or chapter 272C, or of a rule adopted under this chapter or commission of any of the following acts or offenses:

...
d. Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.

e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal....

f. Negligence or incompetence in developing an appraisal report, or in communicating an appraisal.

...

543D.18 Standards of Practice

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.

The Board is empowered to administer Iowa Code chapter 117B [transferred to chapter 543D in the Code, 1993] and to administer and implement rules adopted under Iowa Code chapter 17A. See: 193F IAC 1.4(6); see also 193F IAC 2.7.

The Respondent herein is at the time of the hearing on this case, a licensed appraiser; this category of professional licensure is pending a phase-out by July 1, 1999. See: 193F IAC 3.25(5). The denial of the Respondent's application to upgrade his licensed status and the disciplinary action were consolidated for hearing in this contested case.

In turn, rule 193F IAC 7.1(5) provides, in relevant part:

193F-7.1(543D) Grounds for disciplinary actions against certificates, licenses, and associates. The grounds for revocation and suspension of certificates, licenses and associate registrations and other disciplinary action against appraisers are set out in Iowa Code section 543D.17 in both specific and general terms. The general terms of that provision of the Code include the following particular grounds for such disciplinary action:

...
7.1(5) Failure to comply with the USPAP applicable at the time of the development and communication of the real

estate appraisal.

The analytical framework of this division corresponds to the three specified Counts in the Complaint, as follows: Count I alleges violation of the USPAP standards; Count II alleges failure to exercise reasonable diligence *contra* to Iowa Code section 543D.17(1)(e), and Count III alleges incompetence in the preparation of appraisals, *contra* to Iowa Code section 543D.17(1)(f). The Board finds, unanimously, that the three counts are each founded as a matter of fact with reference to the appraisals by a clear preponderance of the evidence.

The 1997 and the 1998 USPAP contained the following relevant standards, virtually identical as to text and content:

Standards Rule 1-1

In developing a real property appraisal, an appraiser must:

(a) be aware of, understand and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

...
(b) not commit a substantial error of omission or commission that significantly affects an appraisal;

...
(c) not render appraisal services in a careless or negligent manner, such as a series of errors that, considered individually, may not significantly affect the results of an appraisal, but which, when considered in the aggregate, would be misleading.

In both annual additions, the "Comment" section for each lettered subpart contains the identical, blanket caveat: "Comment: Departure from this binding requirement is not permitted. [underlining in original 1997 edition, not present in 1998 edition]" See: Exhibits U and V at pages 11, and unnumbered 15, respectively. Thus, the standard is mandatory, and not directory.

Uniformly, in all five appraisal reports, the Respondent went far beyond the immediate and proximate area for comparable sales, and *contra* to the explicit APPRAISERS CERTIFICATION concerning similar and proximate sales on the two appraisals of Parcel IV. In each appraisal, the Respondent failed to demonstrate an understanding, and correctly employ the sales-comparison analysis.

Uniformly, the Respondent's reports contain numerous and blatant errors of commission. The "demonstration," of Parcel II, was represented as a sale that in fact was not transacted is, in the estimation of the Board, most reprehensible. Counsel representing the public interest--to the Respondent's benefit and advantage--

pointed out that the Respondent was not cited with fraud in the Complaint. Be that as it may, the magnitude of this misrepresentation is reckless in the legal sense of the word, as it illustrates willful and wanton conduct, in disregard of the immediate and foreseeable consequences to significantly affect the appraisal.

With reference to the sales-comparison approach, the specific requirements are set forth in Standards Rule 1-4: "In developing a real property appraisal, an appraiser must observe the following appraisal guidelines, when applicable:....(b) collect, verify and reconcile:.... (iii) such comparable sales data, adequately identified and described, as are available to indicate a value conclusion;... [bold in original 1997 edition, not present in 1998 text]" Regardless of approach to value, the Respondent's methodology was conclusive, as well as lax and vague as to verification, analysis and reconciliation.

Uniformly, the careless and negligent manner of the preparation is evident in the inconsistencies and errors clear on the face of every report.

Without cataloging specific deficiencies, the Board finds and concludes that all of the Respondent's work product submitted as exhibits failed to conform with USPAP standard rules 1-1, (a) through (c) inclusive and 1-4(b).

USPAP Standard 2 governs the proscribed form and content of a report. Standards Rule 2-1, and 2-2 state in pertinent part:

Each written or oral real property appraisal report must:
(a) clearly and accurately set forth the appraisal in a manner that will not be misleading ;
(b) contain sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly;...

Standards Rule 2-2.....(a) The self-contained appraisal report must:....
(iii) state the purpose and intended use of the appraisal....
(vi) state the process of collecting, confirming and reporting data;

Comment: This requirement is designed to the client and intended users whose expected reliance on an appraisal report may be affected by the extent by the investigation, i.e., the process of collecting, confirming and reporting data. [Bold in original 1997 edition, omitted from 1998 text]."

The Board finds and agrees with each of the reviews prepared by Mr. Hummel that the Respondent failed to identify the purpose of the appraisal, the intended use and users, uniformly in all of the Respondent's work product submitted as exhibits, in violation of USPAP Standards Rules 2-1 (a) and (b) and 2-2(a)(iii). Non-compliance with subsection (vi) was frequent, however, not common to all the appraisals.

The Board finds, with reference to Count II of the Complaint, and for reasons described and discussed concerning violation of USPAP standards, the Respondent has failed to exercise due diligence in developing his appraisals, contra to Iowa Code section 543D.17(1)(e) and (f). Even the most cursory proof reading and review would have disclosed the most patent and simple errors of sentence structure, arithmetic and spelling.

Finally, with reference to Count III, overall analysis of the Respondent's work product and the evaluation of the Respondent's answers to questions posed by practicing Board members, the Board concludes that the Respondent has not demonstrated compliance with the most basic and minimal standards of competency, in violation of Iowa Code section 543D.17(1)(f).

The Board is mindful of its charge to protect the public interest. The Board is also cognizant that the license herein is the Respondent's profession and livelihood. The Board is collectively concerned about the recent inadequacies of the Respondent's work product, even after forty-five hours of remedial continuing education hours completed pursuant to the consent decree. The Board attempts to fashion a decision in this matter that is remedial, and not punitive. The Respondent has not demonstrated that, as an applicant, he has a working knowledge of current appraisal theories, practices and techniques which will provide a high degree of service and protection to members of the public, with reference to Iowa Code section 543D.5(3).

Wherefore, it was the unanimous decision of the Board to enter the following:

DECISION AND ORDER

The denial of the Respondent's application for recertification is hereby AFFIRMED.

IT IS FURTHER ORDERED the Respondent's license and certification is hereby REVOKED, indefinitely, with no prospect for reinstatement for a term of one year from the date of this Order.

IT IS FURTHER ORDERED that as a condition precedent for reinstatement, the Respondent shall meet the educational and experience requirements for certification anew, and in compliance

with the standards and requirements in effect at the time of the Respondent's application for reinstatement. The Respondent is not afforded credit or recognition for any education or experience acquired before the date of this Order.

Dated in Des Moines on this *7th* day of *January*, 1999

[REDACTED]

Nancy M. Larson, Board Chairperson

[REDACTED]

James R. Axt, Administrative Law Judge
for the Board

jra

cc: Pamela Griebel, Assistant Iowa Attorney General

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A.

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d) The Respondent mis-stated the zoning parameters of the Mount Vernon zoning ordinances, as exclusively residential. Id., at page 1.

PARCEL IV

The fourth and final parcel is a single family residence located at 1314 "K" Avenue, NE in Cedar Rapids. The appraisal is dated January 25, 1998 and appears in the record as Exhibit S. Here, the complaining party was a fellow-appraiser, with the SRA [senior real estate appraiser] designation. The complaint characterized the appraisal as a "...general picture of non-descriptiveness and incompetency." See: Exhibit R. This appraisal was found to be inadequate in several particulars:

a) The subject residence is indicated as eighty-two years old and

also as having no functional and external depreciation. The Board finds that this state of affairs is highly unlikely and incredible.

b) Again, the Respondent failed to identify the appraisal option used, the purpose of the appraisal, and its intended use.

c) The Respondent indicated that the subject property had central air conditioning on the grid, however, in the sales-comparison analysis, indicated no central air.

As fact-finders herein, the practicing appraiser members of the Board concluded there were apparent common deficiencies in the Respondent's work product:

1. The appraisals are fraught with inconsistencies, and careless errors in sentence structure, arithmetic, and attention to detail.

2. On an overall basis, the reports are lacking as to enunciated methodology and analysis; conclusions are not developed and lack justification.

3. The Respondent was questioned by individual Board members. Even after forty-five hours of continuing education, the Board determined that the Respondent did not, at the time of the hearing, have a basic, rudimentary understanding of depreciation, effective age, and remaining economic life, as well as the intended use and user(s) of a report.

The Respondent testified in his own behalf. A testimonial was presented from a lender, Exhibit 1. The Respondent conceded that he did not proof read his reports in sufficient detail, and suggested that he needed to: ... "slow down; ...work with some of these issues [and] mistakes I've made."

CONCLUSIONS OF LAW

Pursuant to the *Iowa Voluntary Appraisal Standards and Appraiser Certification Law*, Chapter 543D of the Iowa Code, certification requirements shall require a demonstration that the applicant has a working knowledge of current appraisal theories, practices and techniques to assure a high degree of service and protection to the public. See: Iowa Code section 543D.5(3).

Iowa Code sections 543D.17(1)(d) and 543D.18(1) provide, in relevant part:

543D.17 Disciplinary proceedings.

1. The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in

accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend the rights of a holder or otherwise discipline a holder for violation of a provisions of this chapter, or chapter 272C, or of a rule adopted under this chapter or commission of any of the following acts or offenses:

- ...
- d. Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.
- e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal....
- f. Negligence or incompetence in developing an appraisal report, or in communicating an appraisal.
- ...

543D.18 Standards of Practice

- 1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.

The Board is empowered to administer Iowa Code chapter 117B [transferred to chapter 543D in the Code, 1993] and to administer and implement rules adopted under Iowa Code chapter 17A. See: 193F IAC 1.4(6); see also 193F IAC 2.7.

The Respondent herein is at the time of the hearing on this case, a licensed appraiser; this category of professional licensure is pending a phase-out by July 1, 1999. See: 193F IAC 3.25(5). The denial of the Respondent's application to upgrade his licensed status and the disciplinary action were consolidated for hearing in this contested case.

In turn, rule 193F IAC 7.1(5) provides, in relevant part:

193F-7.1(543D) Grounds for disciplinary actions against certificates, licenses, and associates. The grounds for revocation and suspension of certificates, licenses and associate registrations and other disciplinary action against appraisers are set out in Iowa Code section 543D.17 in both specific and general terms. The general terms of that provision of the Code include the following particular grounds for such disciplinary action:

- ...
- 7.1(5)** Failure to comply with the USPAP applicable at the time of the development and communication of the real

estate appraisal.

The analytical framework of this division corresponds to the three specified Counts in the Complaint, as follows: Count I alleges violation of the USPAP standards; Count II alleges failure to exercise reasonable diligence *contra* to Iowa Code section 543D.17(1)(e), and Count III alleges incompetence in the preparation of appraisals, *contra* to Iowa Code section 543D.17(1)(f). The Board finds, unanimously, that the three counts are each founded as a matter of fact with reference to the appraisals by a clear preponderance of the evidence.

The 1997 and the 1998 USPAP contained the following relevant standards, virtually identical as to text and content:

Standards Rule 1-1

In developing a real property appraisal, an appraiser must:

(a) be aware of, understand and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

...
(b) not commit a substantial error of omission or commission that significantly affects an appraisal;

...
(c) not render appraisal services in a careless or negligent manner, such as a series of errors that, considered individually, may not significantly affect the results of an appraisal, but which, when considered in the aggregate, would be misleading.

In both annual additions, the "Comment" section for each lettered subpart contains the identical, blanket caveat: "Comment: Departure from this binding requirement is not permitted. [underlining in original 1997 edition, not present in 1998 edition]" See: Exhibits U and V at pages 11, and unnumbered 15, respectively. Thus, the standard is mandatory, and not directory.

Uniformly, in all five appraisal reports, the Respondent went far beyond the immediate and proximate area for comparable sales, and *contra* to the explicit APPRAISERS CERTIFICATION concerning similar and proximate sales on the two appraisals of Parcel IV. In each appraisal, the Respondent failed to demonstrate an understanding, and correctly employ the sales-comparison analysis.

Uniformly, the Respondent's reports contain numerous and blatant errors of commission. The "demonstration," of Parcel II, was represented as a sale that in fact was not transacted is, in the estimation of the Board, most reprehensible. Counsel representing the public interest--to the Respondent's benefit and advantage--

pointed out that the Respondent was not cited with fraud in the Complaint. Be that as it may, the magnitude of this misrepresentation is reckless in the legal sense of the word, as it illustrates willful and wanton conduct, in disregard of the immediate and foreseeable consequences to significantly affect the appraisal.

With reference to the sales-comparison approach, the specific requirements are set forth in Standards Rule 1-4: "In developing a real property appraisal, an appraiser must observe the following appraisal guidelines, when applicable:....(b) collect, verify and reconcile:.... (iii) such comparable sales data, adequately identified and described, as are available to indicate a value conclusion;... [bold in original 1997 edition, not present in 1998 text]" Regardless of approach to value, the Respondent's methodology was conclusive, as well as lax and vague as to verification, analysis and reconciliation.

Uniformly, the careless and negligent manner of the preparation is evident in the inconsistencies and errors clear on the face of every report.

Without cataloging specific deficiencies, the Board finds and concludes that all of the Respondent's work product submitted as exhibits failed to conform with USPAP standard rules 1-1, (a) through (c) inclusive and 1-4(b).

USPAP Standard 2 governs the proscribed form and content of a report. Standards Rule 2-1, and 2-2 state in pertinent part:

Each written or oral real property appraisal report must:
(a) clearly and accurately set forth the appraisal in a manner that will not be misleading ;
(b) contain sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly;...

Standards Rule 2-2.....(a) The self-contained appraisal report must:....
(iii) state the purpose and intended use of the appraisal....
(vi) state the process of collecting, confirming and reporting data;

Comment: This requirement is designed to the client and intended users whose expected reliance on an appraisal report may be affected by the extent by the investigation, i.e., the process of collecting, confirming and reporting data. [Bold in original 1997 edition, omitted from 1998 text]."

The Board finds and agrees with each of the reviews prepared by Mr. Hummel that the Respondent failed to identify the purpose of the appraisal, the intended use and users, uniformly in all of the Respondent's work product submitted as exhibits, in violation of USPAP Standards Rules 2-1 (a) and (b) and 2-2(a)(iii). Non-compliance with subsection (vi) was frequent, however, not common to all the appraisals.

The Board finds, with reference to Count II of the Complaint, and for reasons described and discussed concerning violation of USPAP standards, the Respondent has failed to exercise due diligence in developing his appraisals, *contra* to Iowa Code section 543D.17(1)(e) and (f). Even the most cursory proof reading and review would have disclosed the most patent and simple errors of sentence structure, arithmetic and spelling.

Finally, with reference to Count III, overall analysis of the Respondent's work product and the evaluation of the Respondent's answers to questions posed by practicing Board members, the Board concludes that the Respondent has not demonstrated compliance with the most basic and minimal standards of competency, in violation of Iowa Code section 543D.17(1)(f).

The Board is mindful of its charge to protect the public interest. The Board is also cognizant that the license herein is the Respondent's profession and livelihood. The Board is collectively concerned about the recent inadequacies of the Respondent's work product, even after forty-five hours of remedial continuing education hours completed pursuant to the consent decree. The Board attempts to fashion a decision in this matter that is remedial, and not punitive. The Respondent has not demonstrated that, as an applicant, he has a working knowledge of current appraisal theories, practices and techniques which will provide a high degree of service and protection to members of the public, with reference to Iowa Code section 543D.5(3).

Wherefore, it was the unanimous decision of the Board to enter the following:

DECISION AND ORDER

The denial of the Respondent's application for recertification is hereby AFFIRMED.

IT IS FURTHER ORDERED the Respondent's license and certification is hereby REVOKED, indefinitely, with no prospect for reinstatement for a term of one year from the date of this Order.


IT IS FURTHER ORDERED that as a condition precedent for reinstatement, the Respondent shall meet the educational and experience requirements for certification anew, and in compliance

with the standards and requirements in effect at the time of the Respondent's application for reinstatement. The Respondent is not afforded credit or recognition for any education or experience acquired before the date of this Order.

Dated in Des Moines on this *7th* day of *January*, 1999



Nancy M. Larson, Board Chairperson



James R. Axt, Administrative Law Judge
for the Board

jra

cc: Pamela Griebel, Assistant Iowa Attorney General

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A.