

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD
OF THE STATE OF IOWA

IN THE MATTER OF:
JOSEPH R. VEACH
CERTIFICATE NO. [REDACTED]
RESPONDENT

CASE NO. 93-39

COMPLAINT

COMES NOW, the Complainant William M. Schroeder, and states:

1. He is the Executive Secretary of the Iowa Real Estate Appraiser Examining Board and files this Complaint solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 543D, 272C (1993).
3. On February 13, 1992, Joseph R. Veach, the Respondent was issued an Iowa Real Estate Appraiser License by the Board.
4. The license No. [REDACTED] is currently in good standing.

COUNT I

The Respondent is charged with a violation of the standards for the development and communication of a real estate appraisal pursuant to Iowa Code Sections 543D.17(1)(d) and 543D.18(1)(1993) and Iowa Administrative Code 193F - 7.1(5).

COUNT II

The Respondent is charged with failing to exercise reasonable diligence in the preparation and communication of a real estate appraisal in violation of Iowa Code Section 543D.17(1)(e)(1993).

COUNT III

The Respondent is charged with negligence and incompetence in the preparation and communication of a real estate appraisal in violation of Iowa Code Section 543D.17(1)(f)(1993).

CIRCUMSTANCES

(1) The Respondent prepared and communicated an appraisal for Kevin Burns, Maquoketa State Bank, Maquoketa, Iowa for property located at 1214 Garfield, Dubuque, Iowa and dated March 18, 1994. A copy of the appraisal is attached as Exhibit 1.

(2) Exhibit 1 was prepared and communicated after the Respondent was issued Iowa State Appraisal License No. [REDACTED]

(3) Exhibit 1 contains numerous deficiencies including, but not limited to the following:

- a. Failure to identify the intended use (Function of Appraisal), scope of the appraisal, and the date of the report, all a violation of USPAP SR 1-2(a).
- b. Failure to adequately describe the site, improvements, physical and functional factors affecting value, highest and best use, and personality of the subject, violations of USPAP SR 1-2a, SR 1-4g, SR 1-3b, SR 1-3a, and SR 1-2e.
- c. Failure to analyze the external market factors affecting value conclusions and neighborhood trends, a violation of USPAP SR 1-3a, SR 1-4g, and SR 1-3b.
- d. Failure to use appropriate data, adequately describe comparable sales, and reconcile the different indicated values for subject, a violation of USPAP SR 1-4b, and SR 2-2h.
- e. Failure to use adequate and appropriate data and reasoning in the reconciliation in the Income Approach both, a violation of USPAP SR 1-4b.
- f. Failure to adequately and appropriately support the estimated cost new and estimated depreciation in the Cost Approach, a violation of USPAP SR 1-4b.
- g. Failure to use adequate data and reasoning in developing a land value in the Cost Approach, a violation of USPAP SR 1-4b.
- h. Failure to give an adequate reconciliation and final value estimate, a violation of USPAP SR 1-5c.
- i. Failure to consider current sale/contract/listing of subject property or the prior sale of subject property, both violations of USPAP, including SR 1-5a and SR 1-5b.

- j. Failure to correctly employ recognized methods and techniques necessary to produce a creditable appraisal, a violation of USPAP SR 1-1a.
- k. Committed a substantial error of omission or commission that significantly affected the appraisal, a violation of USPAP SR 1-1b.
- l. Rendered appraisal services in a careless and/or negligent manner resulting in a misleading conclusion, a violation of USPAP SR 1-1c.

WHEREAS, the Complainant prays that a hearing be held in this matter and that the Board take such action as it deems appropriate under the law.

William M. Schroeder
Executive Secretary
Complainant

On this day of July, 1994 the Iowa Real Estate Appraiser Examining Board found probable cause to file this statement of charges and to order a hearing in this case.

Arthur J. Frahm, Chair
Iowa Real Estate Appraiser
Examining Board

BEFORE THE REAL ESTATE APPRAISER EXAMINING BOARD
OF THE STATE OF IOWA

IN THE MATTER OF:
JOSEPH R. VEACH
CERTIFICATE NO. [REDACTED]
RESPONDENT

)
) CASE NO. 93-39
) ORDER AND NOTICE OF HEARING
)

Now on the 11th day of July, 1994 the Iowa Real Estate Appraiser Examining Board has reviewed the investigative file of the Respondent, Joseph R. Veach, and concluded that probable cause exists to file a complaint and to order a hearing in this matter.

IT IS HEREBY ORDERED that the hearing be held upon the Complaint to discipline the certificate issued to the Respondent, Joseph R. Veach.

You are notified that a hearing will be held at 10:00 a.m. on the 16th day of September, 1994, at 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

You may appear personally and be represented by legal counsel at your expense, with the right to cross-examine witnesses and to examine evidence produced against you. If you fail to appear and defend this matter, the hearing will proceed and a decision will be made.

You are also hereby notified that you or your counsel may answer to the matters asserted in the Statement of Charges within twenty days after receipt of the Original Notice, which answer may admit or deny each matter asserted.

You are also hereby notified that a disciplinary hearing shall be open to the public at the discretion of the licensee.

Dated this 11th day of July, 1994.

Arthur J. Frahm, Chairperson
Iowa Real Estate Appraiser
Examining Board

BEFORE THE REAL ESTATE APPRAISER EXAMINING BOARD
OF THE STATE OF IOWA

IN THE MATTER OF:)	DIA NO. 94DOCRE-2
)	CASE No. 93-39
JOSEPH R. VEACH,)	
Certificate No. [REDACTED])	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER

On July 11, 1994, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a complaint against Joseph R. Veach (Respondent). The complaint alleged that an appraisal prepared and communicated by the Respondent contained numerous deficiencies which violated Iowa Code sections 543D.17(1)(d), 543D.17(1)(e), 543D.17(1)(f), and 543D.18(1)(1993). The complaint also alleged a violation of 193F Iowa Administrative Code 7.1(5).

A notice of hearing on the complaint was sent to the Respondent by certified mail, return receipt requested. The return receipt shows that the notice was delivered to the Respondent on August 15, 1994. The notice stated that a hearing would be held on September 16, 1994, and specified the time and place for the hearing. On September 16, 1994, the following board members convened for the hearing: Arthur J. Frahm, chair; Pat A. Hastings, vice-chair; Nancy M. Larson; David R. Hicks; and Dianne L. Dethmers Paca. William Stansbery, an administrative law judge from the Iowa Department of Inspections and Appeals, presided. The State was represented by Pam Griebel, an assistant attorney general. The Respondent did not appear for the hearing. The proceedings were recorded by a certified court reporter.

K. Marie Thayer, the Administrator for the Professional Licensing and Regulation Division of the Iowa Department of Commerce, informed the Board that the Respondent had telephoned the Board's staff during the morning of September 16, 1994, and said that he would not be appearing for the hearing. Although there was not an explicit request for a continuance, the Board considered whether to continue the hearing to a later date. The Board voted to proceed with the hearing.

After hearing the testimony and examining the exhibits, the Board convened in closed session to discuss the decision to be rendered, pursuant to Iowa Code section 21.5(1)(f)(1993). After deliberations, the Board instructed the Administrative Law Judge to prepare its Findings of Fact, Conclusions of Law, and Decision and Order.

THE RECORD

The record includes the Order and Notice of Hearing; the Complaint; and the certified mail return receipt card, showing delivery of the Notice of Hearing and the Complaint. The evidence presented at the hearing includes the testimony of William M. Schroeder and Dennis R. Loll and the following exhibits:

- State's Exhibit A: Letter from Farmers Home Administration to the Board, August 25, 1993
- State's Exhibit B: Letter from William M. Schroeder to the Respondent, September 27, 1993
- State's Exhibit C: Letter from the Respondent to William M. Schroeder, October 15, 1993
- State's Exhibit D: Letter from William M. Schroeder to the Respondent, March 16, 1994
- State's Exhibit E: Respondent's appraisal of a residential property, March 18, 1994
- State's Exhibit F: Vita of Dennis R. Loll

FINDINGS OF FACT

1. On February 13, 1992, the Board issued to the Respondent a certificate as a licensed real property appraiser. The certificate number is [REDACTED]. The Respondent's name as it appears on the certificate is Joseph Robert Veach.
2. On August 26, 1993, the Board received a letter from the Farmers Home Administration concerning an appraisal made by the Respondent. The letter questioned whether the appraisal complied with standards.
3. In response to the communication from the Farmers Home Administration, the executive secretary of the Board, on September 27, 1993, sent the Respondent a letter. The letter requested that the Respondent submit copies of two recent appraisal reports for evaluation.
4. On October 25, 1993, the Board received a letter from the Respondent. The letter stated that the Respondent was attending a school on November 17, 18, and 19, and that the Respondent would submit copies of two appraisal reports after attending the school.

5. As of March 16, 1994, the Respondent had not submitted copies of appraisal reports. On that date, the executive secretary of the Board sent the Respondent a letter requesting submission of two recent appraisal reports within ten days.

6. At some date after March 16, 1994, the Board's staff received copies of two appraisal reports from the Respondent.

7. One of the appraisal reports submitted by the Respondent was of a residential property in Dubuque, Iowa. The appraisal was performed for a bank.

8. In making the appraisal, the Respondent committed substantial errors of omission and commission that significantly affected the appraisal, including the following:

- a. An inadequate description of the neighborhood;
- b. No analysis of external market factors, such as land use trends and market conditions in the area;
- c. No estimate of the remaining life of the property;
- d. Discrepancies in the adjustment for square footage in comparable properties;
- e. No description of the highest and best use.

9. The Respondent committed errors of omission and commission that, considered individually, did not significantly affect the results of the appraisal, but which, considered in the aggregate, resulted in a misleading conclusion. This combination of less-substantial errors was in addition to errors that were each substantial when considered in isolation.

10. The Respondent failed to adequately collect, verify, analyze, and reconcile data as necessary to estimate the property value through the cost approach, the sales comparison approach, and the income approach.

11. The Respondent failed to be aware of, understand, and employ those recognized methods and techniques that are necessary to produce a credible appraisal.

12. The Respondent failed to set forth the information considered, the appraisal procedures followed, and the reasoning that supported the analyses, opinions and conclusions.

13. The appraisal, considered as a whole, is misleading, confusing, and incomplete. A desk review of the appraisal would lead to a different conclusion as to the value of the property. The appraisal document would be inadequate to support a mortgage sold on the secondary market.

CONCLUSIONS OF LAW

1. Iowa Code chapter 543D(1993) deals with real estate appraisals and appraisers. Section 543D.2 states that the purpose of the chapter is to establish standards for real estate appraisers and a procedure for voluntary certification of real estate appraisers. It also provides that a person who is not a certified state appraiser may appraise real estate for compensation unless certification is required by chapter 543D or other federal or state law, rule, or policy. Section 543D.4 provides for the Real Estate Appraiser Examining Board. Section 543D.5 gives the Board authority to adopt rules to establish appraisal standards and appraiser certification requirements. Section 543D.17 provides that the Board may impose disciplinary action and sets out grounds for discipline. The rules of the Board are found at Title 193F of the Iowa Administrative Code.

2. Notice of hearing was served on the Respondent in the manner required by 193F Iowa Administrative Code 8.8 and 8.9. Pursuant to 193F Iowa Administrative Code 8.12(5), if a respondent fails to appear the Board may proceed with the hearing and the respondent shall be bound by the results of the hearing.

USPAP Standards

3. Pursuant to Iowa Code section 17A.14(4) (1993), the Board takes official notice of the "Uniform Standards of Professional Appraisal Practice" (USPAP), as published by the Appraisal Standards Board of The Appraisal Foundation. The Board finds that fairness to the parties does not require an opportunity for the parties to contest this taking of official notice.

4. USPAP Standard Rule 1-1(a) requires that an appraiser:

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

The Respondent violated Standard Rule 1-1(a) by failing to be aware of, understand, and employ those recognized methods and techniques which that are necessary to produce a credible appraisal.

5. USPAP Standard Rule 1-1(b) requires that an appraiser:

not commit a substantial error of omission or commission that significantly affects an appraisal

The Respondent violated Standard Rule 1-1(b) by committing substantial errors of omission and commission that significantly affected the appraisal.

6. USPAP Standard Rule 1-1(c) requires that an appraiser:

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

The Respondent violated USPAP Standard Rule 1-1(c) by committing errors of omission and commission that, considered individually, did not significantly affect the results of the appraisal, but which, considered in the aggregate, resulted in a misleading conclusion.

7. USPAP Standard Rule 1-3(a) requires that an appraiser:

consider the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such land use regulations, economic demand, the physical adaptability of the real estate, neighborhood trends, and the highest and best use of the real estate

The Respondent violated Standard Rule 1-3(a) by failing to describe neighborhood trends and by failing to describe the highest and best use of the real estate.

8. USPAP Standard Rule 1-4(b) requires that the appraiser:

collect, verify, analyze, and reconcile:
(i) such comparable cost data as are available to estimate the cost new of the improvements (if any);
(ii) such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation);
(iii) such comparable sales data, adequately identified and described, as are available to indicate a value conclusion;
(iv) such comparable rental data as are available to estimate the market rental of the property being appraised;

(v) such comparable operating expense data as are available to estimate the operating expenses of the property being appraised;

(vi) such comparable data as are available to estimate rates of capitalization and/or rates of discount.

The Respondent violated USPAP Standard Rule 1-4(b) by failing to collect, verify, analyze, and reconcile data as necessary to estimate the property value through the cost approach, the sales comparison approach, and the income approach.

9. USPAP Standard Rule 2-1(a) requires that an appraisal report:
clearly and accurately set forth the appraisal in a manner that will not be misleading

The Respondent violated Standard Rule 2-1(a) by issuing an appraisal report that was misleading.

10. USPAP Standard Rule 2-1(b) requires that an appraisal report:
contain sufficient information to enable the person(s) who receive or rely on the report to understand it properly

The Respondent violated Standard Rule 2-1(b) by failing to include sufficient information to enable a person who received the report to understand it properly.

11. USPAP Standard Rule 2-2(h) requires that an appraisal report:
set forth the information considered, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions

The Respondent violated Standard Rule 2-2(h) by failing to set forth the information considered, the appraisal procedures followed, and the reasoning that supported the analyses, opinions and conclusions.

Grounds for Disciplinary Action

12. The introductory paragraph of Iowa Code section 543D.17(1) reads as follows:

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 provision of this chapter, or chapter 272C, or of a rule adopted under this chapter or commission of any of the following acts or omissions:

The statute then lists specific acts or omissions, including the following at (d):

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

Iowa Code section 543D.18(1) reads as follows:

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

The rules of the Board at 193F Iowa Administrative Code 7.1 set out grounds for disciplinary actions, including the following ground at 7.1(5):

Failure to comply with the uniform standards of professional appraisal practice in the development and communication of a real estate appraisal.

The Respondent failed to comply with the Uniform Standards of Professional Appraisal Practice of the Appraisal Standards Board of The Appraisal Foundation. That failure was a violation of 193F Iowa Administrative Code 7.1(5), Iowa Code section 543D.17(1)(d), and Iowa Code section 543D.18(1). Those violations constitute grounds for disciplinary action.

13. Iowa Code section 543D.17(1)(e) provides for disciplinary action for the following:

Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

The Respondent failed to exercise reasonable diligence in developing and preparing the appraisal. That failure was a violation of section 543D.17(1)(e) and it is a ground for disciplinary action.

14. Iowa Code section 543D.17(1)(f) provides for disciplinary action for the following:

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

The Respondent was negligent or incompetent in developing and preparing the appraisal. That failure was a violation of section 543D.17(1)(f) and it is a ground for disciplinary action.

Discipline to Be Imposed

15. Iowa Code section 543D.13 gives the Board the authority to suspend or revoke a certificate. It also gives the Board the authority to take other disciplinary action.

The Board's rule at 193F Iowa Administrative Code 8.13 provides that the Board may take one or more of the following actions:

1. Dismiss the charges.
2. Suspend the registrant's registration as authorized by law.
3. Impose civil penalties, the amount which shall be set at the discretion of the board, but which shall not exceed \$1000. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code section 117B.17 or for any repeat offenses.
4. Impose a period of probation, either with or without conditions.
5. Require reexamination.
6. Require additional professional education, reeducation, or continuing education.
7. Issue a citation and warning.
8. Issue a consent order.

Although the rule does not specifically refer to revocation, the Board concludes that it has authority to revoke the certificate. The statute authorizes revocation. A revocation is equivalent to a suspension with a requirement that the person go through the examination process again at the end of the period of suspension.

In deciding what disciplinary action to impose, the Board has considered the need to protect the public from incomplete and misleading appraisals. The Board has also considered the Respondent's delay in providing appraisal reports for review. The Board has also considered the Respondent's failure to answer the complaint and failure to participate in the hearing.

DECISION AND ORDER

It is therefore the ORDER of the Iowa Real Estate Appraiser Examining Board that certificate number [REDACTED] issued to Licensed Real Property Appraiser Joseph Robert Veach, is hereby revoked.

The Respondent shall not be issued another certificate until at least two years from the date of this order. After two years from the date of this order, the Respondent may be issued a certificate if he meets the requirements of any applicant for initial certification, except that all qualifying education must occur after the date of this order.

If the Respondent is issued another certificate, he shall, within six months from the issuance of the certificate, submit to the Board copies of two appraisal reports prepared after the issuance of the certificate. One of the appraisals shall be a residential appraisal on a URAR form. The other appraisal shall be a non-residential appraisal in narrative form. If the Respondent is unable to submit the two appraisals, he must report to the Board the reasons why he is unable to submit them.

Dated this *12th* day of *October*, 1994.

[REDACTED]
Arthur J. Frahm, Chair
Iowa Real Estate Appraiser Examining Board

Copies to:

Joseph R. Veach
Pam Griebel, Assistant Attorney General