

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

IN THE MATTER OF:)	DIA NO. 95DOCRE-4
)	CASE No. 94-42
CONNIE M. MURRAY,)	
Certificate No. [REDACTED],)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER
)	

On March 1, 1995, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a complaint against Connie M. Murray (Respondent). The complaint alleged the following counts:

- I. that the Respondent violated the standards for development and communication of two real estate appraisals pursuant to Iowa Code sections 543D.17(1)(d) and 543D.18(1)(1993) and Iowa Administrative Code 193F-7.1(5);
- II. that the Respondent failed to exercise reasonable diligence in the preparation and communication of two real estate appraisals, in violation of Iowa Code section 543D.17(1)(e)(1993); and
- III. that the Respondent was negligent and incompetent in the preparation and communication of two real estate appraisals, in violation of Iowa Code Section 543D.17(1)(f)(1993).

A hearing was scheduled for April 21, 1995. The Respondent appeared for the hearing. The state was represented by Pamela Griebel, an assistant attorney general. Board member David R. Hicks acted as chair for the hearing. Other board members present were Arthur J. Frahm, Pat A. Hastings, Nancy M. Larson, Lil M. Perry, and L. Craig Harris. William Stansbery, an administrative law judge from the Iowa Department of Inspections and Appeals, assisted with the conduct of the hearing. The proceedings were recorded by a certified court reporter.

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 and the Complaint. The evidence presented at the hearing includes the testimony of William M. Schroeder, Alan E. Hummel, and the Respondent, and the following exhibits:

- State's Exhibit A: Certified mail receipt showing delivery of notice of hearing
- State's Exhibit B: Vita - Alan E. Hummel
- State's Exhibit C: Excerpts from 1994 Edition of Uniform Standards of Professional Appraisal Practice
- State's Exhibit D: Excerpts from 1994 Edition Mid-Year Supplement of Uniform Standards of Professional Appraisal Practice
- State's Exhibit E: Appraisal report on property at 702 SE 2nd Street, Morning Sun - Case #94-42C
- State's Exhibit F: Summary of Case #94-42C
- State's Exhibit G: Appraisal report on property at 218 S. 2nd Street, Wapello - Case #94-42D
- State's Exhibit H: Summary of Case #94-42D
- State's Exhibit I: Continuing education report dated June 16, 1993

FINDINGS OF FACT

The Real Estate Appraisal Examining Board finds as follows:

1. On September 21, 1992, the Board issued to the Respondent an Iowa Real Estate Appraisal Certificate.
2. In a letter dated November 28, 1994, the Board requested that the Respondent provide copies of two of the Respondent's appraisal reports. The appraisal reports were requested so that they could be reviewed on behalf of the Board.
3. About December 1, 1994, the Board received two appraisal reports from the Respondent.
4. One appraisal report was of a residential property in Morning Sun, Iowa.
5. The appraisal report on the Morning Sun property stated that the size of house was 1,384 square feet. An assessor's drawing that was attached to the report showed that the size of the house was 1,396 feet. The report did not explain the discrepancy.
6. The appraisal report on the Morning Sun property included a section on valuation through the cost approach. The report did not show that the value of an enclosed porch was included in the valuation. Nothing was written in a blank for showing the "As-is" value of site improvements. External depreciation of \$4,844 was shown but was not explained in the report.

The Respondent did not write anything in the blank for the value of site improvements because she found no site improvements of any

value. Until recently, the Respondent has left such an item blank instead of indicating that it was not applicable.

The amount for external depreciation was due to the community's not having a junior high school and a high school. In another portion of the report, the Respondent noted the absence of a junior high school and high school, but she did not explain that it was the reason for the external depreciation.

7. The appraisal report on the Morning Sun property included a section on valuation through a sales comparison approach. In that section, the square footage for two comparable properties was different from the square footage shown in the assessor's records for those properties. The report did not explain the discrepancy. One of the comparable properties did not show a street address. One of the comparable properties was sold over one year before the appraisal date. The report made no adjustment for the passage of time and did not explain why no adjustment was made. The age of two of the three properties was reported as "old". There was no description of an effective age and no information to determine if the stated adjustment of \$3,000 was reasonable.

8. In a final reconciliation section of the report on the Morning Sun property, a figure of \$32,680 was given for the value arrived at through the cost approach. An earlier section of the report stated a figure of \$29,220 for the cost approach value. The report did not explain the discrepancy.

This discrepancy was due to a proofreading error by the Respondent.

9. The other appraisal submitted by the Respondent was for a residential property in Wapello, Iowa.

10. In the section for showing a cost approach value for the Wapello property, the Respondent stated that the site value was the assessed value plus twenty-one percent. The Respondent also stated that the value may be slightly underestimated because many new homes in the area are partially completed by the owner.

11. In the section for showing a value through comparable sales, the Respondent showed the ages of the structures as "old" and "unknown". For two of the comparable properties, the room count was omitted. For one of the comparable properties, air conditioning was not shown, but the assessor's records showed air conditioning for that property. This discrepancy was not explained. The report showed adjustments to the values for comparable properties, with no explanation as to why some of the adjustments were made.

12. In one section of the appraisal report for the Wapello property the Respondent stated that property values had been

increasing within the previous three years. One of the properties for the comparable sales approach was sold more than one year before the date of the appraisal, but no adjustment was made to reflect an increase in property values. This discrepancy was not explained in the report.

13. Neither the report for the Morning Sun property nor the report for the Wapello property stated whether the report was a self-contained appraisal report, a summary appraisal report, or a restricted appraisal report.

CONCLUSIONS OF LAW

1. Iowa Code chapter 543D(1995) concerns 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.

For the purposes of this decision, there were no relevant changes from the 1993 Code to the 1995 Code.

The rules of the Board are found at Title 193F of the Iowa Administrative Code (IAC).

USPAP

2. Iowa Code section 543D.5(1) grants the Board authority to adopt "any standards recommended by the appraisal foundation . . ." Section 543D.17(1)(d) authorizes disciplinary action for "[v]iolation of any of the standards for the development and communication of real estate appraisals as provided in this chapter." Section 543D.18(1) states, "A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter." 193F IAC 7.1(5) provides that the following is a ground for disciplinary action by the Board: "Failure to comply with the uniform standards of professional appraisal practice in the development and communication of a real estate appraisal." 193F IAC 1.1 defines "USPAP" as follows: "The Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation." These provisions, read together, mean that a failure to comply with USPAP is grounds for disciplinary action.

3. 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 cost new and the present worth of the improvements (accrued depreciation); . . .

In the appraisal report on the Morning Sun property, the Respondent did not show that the value of an enclosed porch was included in the valuation, wrote nothing in a blank for showing the "As-is" value of site improvements, and did not explain external depreciation of \$4,844. That was a failure to comply with USPAP Standard Rule 1-4(b)(i) and Standard Rule 1-4(b)(ii).

The Respondent did not state the "As-is" value of site improvements because there were no site improvements. The external depreciation was due to the community not having a junior high school and a high school. Regardless of whether the Respondent was correct with regard to the evaluation of site improvements and external depreciation, her failure to provide sufficient information in the report was a failure to analyze and reconcile the data.

In the appraisal report on the Wapello property, the Respondent stated that the site value was the assessed value plus twenty-one percent. The Respondent also stated that the value may be slightly underestimated because many new homes in the area are partially completed by the owner. These practices were a failure to comply with USPAP Standard Rule 1-4(b)(i). The use of the assessor's value was a failure by the Respondent, as the appraiser, to collect, verify and analyze the data. The reference to completion of homes by owners was not helpful in determining the reproduction cost of a completed home.

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

collect, verify, analyze, and reconcile:

- (iii) such comparable sales data, adequately identified and described, as are available to indicate a value conclusion; . . .

In the appraisal report on the Morning Sun property the square footage for two comparable properties was different from the square footage shown in the assessor's records for those properties. The report did not explain the discrepancy. One of the comparable properties did not show a street address. One of the comparable properties had been sold over one year before the appraisal date. The report made no adjustment for the passage of time and did not explain why no adjustment was made. The age of two of the three

properties was reported as "old". There was no description of an effective age and no information to determine if the stated adjustment of \$3,000 was reasonable. This was a failure by the Respondent to comply with USPAP Standard Rule 1-4(b)(iii).

In the appraisal report for the Wapello property, the Respondent showed the ages of the structures as "old" and "unknown". For two of the comparable properties, the room count was omitted. For one of the comparable properties, air conditioning was not shown, but the assessor's records showed air conditioning. This discrepancy was not explained. The report showed adjustments to the values for comparable properties, with no explanation as to why some of the adjustments were made. This was a failure by the Respondent to comply with USPAP Standard Rule 1-4(b)(iii).

5. USPAP Standard Rule 1-4(g) requires that the appraiser

identify and consider the appropriate procedures and market information required to perform the appraisal, including all physical, functional, and external market factors as may affect the appraisal; . . .

In one section of the appraisal report for the Wapello property the Respondent stated that property values had been increasing within the previous three years. One of the properties for the comparable sales approach had been sold more than one year before the date of the appraisal, but no adjustment was made to reflect an increase in property values. There was no explanation of why an adjustment was not made. This was a failure by the Respondent to comply with USPAP Standard Rule 1-4(g).

6. USPAP Standard Rule 2-1(b) requires that the appraisal report "contain sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly." The Respondent's reports on both the Morning Sun property and the Wapello property contained inconsistencies. The reports failed to show the source of some of the data and they failed to show the reasoning for some of the conclusions of the Respondent. The reports did not conform to Standard Rule 2-1(b).

7. The introductory paragraph of USPAP Standard Rule 2-2 requires that each appraisal report state whether it is being prepared as a self-contained appraisal report, a summary appraisal report, or a restricted appraisal report. The remainder of the rule then sets out standards for each of the three report options. Neither of the Respondent's reports stated which type of report was being prepared. The reports did not conform to the introductory paragraph of Standard Rule 2-2.

8. USPAP Standard Rule 2-2(b)(viii) requires that a summary appraisal report "summarize the information considered, the

appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions." The Respondent's reports, when viewed as summary appraisal reports, lacked sufficient information concerning the appraisal procedures followed and the reasoning that supports the analyses, opinions, and conclusions. The reports did not conform to Standard Rule 2-2(b) (viii).

COUNT I - FAILURE TO COMPLY WITH STANDARDS

9. The Board concludes that allegations of Count I of the complaint are sustained in that the Respondent violated Iowa Code sections 543D.17(1)(d) and 543D.18(1)(1993) and 193F IAC 7.1(5) by failing to comply with the standards for development and communication of two real estate appraisals.

COUNT II - FAILURE TO EXERCISE REASONABLE DILIGENCE

10. The Board concludes that allegations of Count II have been established in that the Respondent's failure to comply with USPAP was a failure to exercise reasonable diligence in the preparation and communication of two real estate appraisals in violation of Iowa Code section 543D.17(1)(e).

COUNT III - NEGLIGENCE AND INCOMPETENCE

11. The Board finds that the failure to comply with numerous USPAP standards is negligence or incompetence on the part of a certified real estate appraiser. The Board concludes that allegations of Count III have been established and that there was a violation of Iowa Code section 543D.17(1)(f).

GROUNDS FOR DISCIPLINARY ACTION

12. Iowa Code sections 543D.17(1) 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.

DECISION AND ORDER

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 likelihood that the quality of the Respondent's appraisal reports will improve if she has further education.

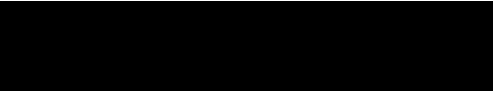
IT IS THEREFORE ORDERED that the Respondent shall successfully complete the following courses of education before January 1, 1996:

- (1) Fifteen tested hours on USPAP; and
- (2) At least thirty additional tested hours that include instruction in the cost approach, the sales comparison approach, and the income approach.

IT IS FURTHER ORDERED that the Respondent shall, within sixty days from the date of this Decision and Order, provide to the Board a plan for completion of the required education.

IT IS FURTHER ORDERED that the Respondent shall, within sixty days following completion of the required education, submit to the Board copies of two residential appraisal reports that have been made after the completion of the required education.

Dated this 17 day of May, 1995.



David R. Hicks, Acting Chair
Iowa Real Estate Appraiser Examining Board