

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

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IN THE MATTER OF:	)	CASE NO. 98-12
	)	DIA NO. 98DOCRE009
CHARLES R STAUDUHAR	)	
CERTIFICATE NO. CG01653	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
RESPONDENT	)	DECISION AND ORDER

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On October 28, 1998, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Complaint against Charles R. Stauduhar (Respondent). The Complaint alleged that the Respondent prepared and communicated three appraisals for real property which contained deficiencies which violated the Uniform Standards of Professional Appraisal Practice (USPAP). The Respondent was charged in three separate counts. A Notice of Hearing scheduled a prehearing conference for January 12, 1999 and a hearing for January 15, 1999. The Respondent appeared at the prehearing conference and the exhibits were exchanged.

The hearing was held on January 15, 1999 at 1:30 p.m. The Respondent appeared and was not represented by counsel. The state of Iowa was represented by Pamela Griebel, Assistant Attorney General. The following Board members were present for the hearing: Nancy M. Larson, Appraiser, Chairperson; Jack Seuntjens, Appraiser; Lil M. Perry, Appraiser; L. Craig Harris, Appraiser; Richard Bruce, Appraiser, and Theresa H. Lewis and Gary J. Johnson, Public Members. John M. Priester, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided. A certified court reporter recorded the proceedings.

The hearing was open to the public. After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(1997) to deliberate its decision. The Board instructed the administrative law judge to prepare its Findings of Fact, Conclusions of Law, Decision and Order, in conformance with its deliberations.

THE RECORD

The record includes the Complaint, Notice of Hearing, State's Prehearing Conference Report, the testimony of the witnesses, and the following exhibits:

State Exhibit A: Proof of Service, 12/14/98  
State Exhibit B: Complaint, 4/29/98  
State Exhibit C: Alan Hummel, Curriculum Vitae

- State Exhibit D: Uniform Standards of Professional Appraisal Practice (USPAP) (1998)
- State Exhibit E: Respondent's 12/18/98 Answer
- State Exhibit F: Hummel Review-502 2nd St., Williams, IA (Appraisal dated 1/27/98)
- State Exhibit G: Appraisal, 502 2nd St., Williams, IA, 1/27/98
- State Exhibit H: Hummel Review-Parcel 429, Warren County (Appraisal dated 3/10/98, effective date 5/29/97)
- State Exhibit I: Appraisal, Parcel 429, Warren County, 3/10/98
- State Exhibit J: Hummel Review-N.E. 46th St., Des Moines, IA (Appraisal date 4/21/98, effective 1/1/98)
- State Exhibit K: Appraisal, N.E.46th St., Des Moines, IA 4/21/98
- Respondent Ex. 1: Addendum No. 1, Appraisal for Parcel No. 429, Warren County,
- Respondent Ex. 2: Letter from Edward R. Stephenson, 502 2nd Street, Williams, IA to Respondent, 12/14/98
- Respondent Ex. 3: Definition of Evaluation from Real Estate Appraisal Terminology, Revised Edition
- Respondent Ex. 4: Pad of forms entitled Basic Appraisal Course Form, 1983
- Respondent Ex. 5: Engineering map for Parcel 429, Warren County "after" the taking
- Respondent Ex. 6: Engineering map for Parcel 429, Warren County "before" the taking
- Respondent Ex. 7: Student Catalog for Western States University for Professional Studies
- Respondent Ex. 8: Consent Decree from Iowa State Board of Engineering Examiners vs. Charles R. Stauduhar, filed 12/26/84

Respondent Ex. 9: Definition of "distinct"

Respondent Ex. 10: ASA certificate naming the Respondent a Senior Member of Technical Valuation/Cost Surveys, 8/28/82

#### FINDINGS OF FACT

1. On March 31, 1993, the Respondent was issued Iowa Real Estate Appraiser Certificate, No. CG01653, by the Board. Certificate No. CG01653 is currently in good standing.

2. On April 30, 1998, the Board received a Complaint filed against the Respondent stating concerns about the Respondent's performance as an appraiser. (State Exhibit B).

3. Alan Hummel, a certified general real property appraiser in the states of Iowa and Kansas, has been retained by the Board as a consultant and investigator since 1992. Mr. Hummel reviewed three appraisals that were prepared and communicated by the Respondent. (State Exhibits F, H and J). Mr. Hummel concluded that all three appraisals contained deficiencies and failed to meet the following Uniform Standards of Professional Appraisal Practice:

Standards Rule 1-1 (a), (b) and (c); 1-2(a); 1-3(a) and (b); 1-4(a), (b) (I) and (iii); 1-5(a), (b) and (c); Standards Rule 2-1(a) and (b); 2-2; 2-2(ii), (iii), (vi), (viii), (ix), (x) and (xi). (Testimony of Alan Hummel; State Exhibits F, H and J)

4. The Uniform Standards of Professional Appraisal Practice (USPAP) are promulgated by the Appraisal Standards Board of The Appraisal Foundation. By federal legislation, the Appraisal Standards Board is authorized to write, promulgate, and interpret these standards. The state of Iowa has chosen to adopt these standards of professional practice. The 1998 Edition of USPAP was applicable to the appraisals which are the subject of this hearing. (Testimony of Alan Hummel; State Exhibit D; 193F IAC 7.1(5))

5. Standard 1 of USPAP outlines the analysis that an appraiser should go through in developing their methodology, in order to produce an appraisal that is not misleading. Standard 2 of USPAP gives the minimum guidelines to the appraiser for reporting the analysis. (Testimony of Alan Hummel; State Exhibit D)

6. Mr. Hummel identified violations of the minimum USPAP standards in each of the three appraisals prepared and communicated by the Respondent. He concluded that the Respondent failed to exercise reasonable diligence and was negligent or incompetent in the preparation and communication of the three appraisals. (Testimony of Alan Hummel; State Exhibits F, H, J)

7. There are specific guidelines within USPAP which the appraiser and his or her client may determine are not necessary in order for the appraiser to complete the analysis for the particular assignment. If a specific guideline is departed from, the appraisal is called a "limited appraisal." The appraiser must specify the departures from Standard 1 in a limited appraisal. A "complete appraisal" indicates that the appraiser has not invoked the departure provisions of USPAP, and the appraiser has abided by all of the rules under Standard 1. (Testimony of Alan Hummel)

8. Under USPAP Standard 2, the appraiser has three options for reporting: the self contained report, summary report, and the restricted report.

a) The self contained report does not require the reader to go outside the document to understand the appraiser's analysis and how conclusions were reached.

b) The summary report is a summarization of the data, some of which may be retained in the appraiser's files. However, if the reader requires clarification, the appraiser must be able to show this information to support his report. The appraiser must be careful that the summary report is not so summarized that it is misleading to the reader. The appraiser has a fair amount of discretion as to what information to put in the report, but once included, the information should be understandable in the form presented.

c) The restricted report is a series of statements which would give the reader conclusions only, with no explanation of how the conclusions were reached.

(Testimony of Alan Hummel)

9. The first appraisal, which was prepared and communicated by the Respondent on January 27, 1998, was not labeled as to which reporting option was being used. Mr. Hummel felt that it most closely resembled a summary report. Mr. Hummel identified the following specific deficiencies in the first appraisal:

a) The Income Approach to value was not considered nor was it reported as not being applicable, thus making this a Limited Appraisal. This information was not reported. USPAP 2-2(xi).

b) The appraisal report fails to indicate what reporting option is being used. USPAP 2-2.

c) The appraisal report fails to consider and identify the purpose of the appraisal. USPAP 1-2(a) and 2-2(iii).

- d) The appraisal report fails to consider and identify the intended use and users of the appraisal. USPAP 1-2(a), 2-2(b)(iii).
- e) The appraisal report fails to consider and identify thereal property interest to be appraised. USPAP 1-2(a), 2-2(ii).
- f) The appraisal report fails to consider and report the extent of the process of collecting, confirming and reporting data. USPAP 1-2(a), 2-2(vi).
- g) The appraisal report fails to consider and report the highest and best use for the site. USPAP 1-3(b), 2-2(ix).
- h) The appraisal report fails to consider and report the highest and best use as improved. USPAP 1-3(a), 2-2(ix).
- i) The information presented in the appraisal report would not lead the reader to the same conclusion as reported concerning whether the appraiser appropriately valued the site. USPAP 1-4(a), 2-2(viii)
- j) The comments in the appraisal report as to condition and required maintenance are not consistent with depreciation taken. USPAP 1-4(b)(I), 2-2(viii).
- k) The Respondent failed to properly collect, verify, analyze and reconcile comparable sales. The information presented was not consistent with factual information presented in other areas of the report. Adjustments, and lack of adjustments, do not appear to be market oriented. USPAP 1-4(b)(iii), 2-2(viii).
- l) The Respondent failed to correctly employ recognized methods and techniques in completing the appraisal report. USPAP 1-1(a), 2-2(iii).
- m) The Respondent failed to explain or support his exclusion of the income approach to value. USPAP 2-2(b)(x).
- n) The Respondent failed to consider, analyze and report any current sale, option or listing of the property being appraised. USPAP 1-5(a), 2-2(xi).
- o) The Respondent failed to consider the quality and quantity of the data in the approaches, the applicability of the approaches and comment on the reconciliation in that in the final estimate of value given is below that concluded by the two approaches to value that were developed with no exceptions given as to why. USPAP 1-5(c), 2-2(xi).

- p) The Respondent committed a substantial error of omission or commission that significantly affected the appraisal when considering the aforementioned deficiencies. USPAP 1-1(b).
- q) The Respondent rendered appraisal services in a careless or negligent manner when considering the aforementioned deficiencies. USPAP 1-1(c).
- r) The Respondent's appraisal report does not clearly and accurately set forth the appraisal in a manner that will not be misleading. USPAP 2-1(a).
- s) The Respondent's appraisal report does not contain sufficient information to enable the person who is expected to receive or rely on the report to understand it properly. USPAP 2-1(b).

(Testimony of Alan Hummel; State Exhibit F, G)

10. The second appraisal, which was prepared and communicated by the Respondent on May 29, 1997, was not labeled as to which reporting option was being used. Mr. Hummel felt that it most closely resembled a summary report. Mr. Hummel identified the following deficiencies in this appraisal:

- a) The appraisal report fails to indicate what reporting option is being used. USPAP 2-2.
- b) The appraisal report fails to consider and report the extent of the process of collecting, confirming and reporting data. USPAP 1-2(a), 2-2(vi).
- c) The Respondent failed to properly collect, verify, analyze and reconcile comparable sales. The adjustments made to comparable sales to not appear to be market oriented, nor is their derivation supported in the report. After concluding \$5400 per acre by this approach, inexplicitly the Respondent added an additional \$600 per acre. The remainder parcel is reported to have several areas of diminished value, though no market support as provided for the dollar impact. USPAP 1-4(b)(iii), 2-2(viii).
- d) The Respondent failed to correctly employ recognized methods and techniques in completing the appraisal report. USPAP 1-1(a), 2-2(viii).
- e) The Respondent failed to consider, analyze and report any current sale, option or listing of the property being appraised. USPAP 1-5(a), 2-2(xi).

- f) The Respondent failed to consider, analyze and report any prior sales for 1-4 family homes within the last year and all sales for the previous 3 years. USPAP 1-5(b), 2-2(xi).
- g) The Respondent committed a substantial error of omission or commission that significantly affected the appraisal when considering the aforementioned deficiencies. USPAP 1-1(b).
- h) The Respondent rendered appraisal services in a careless or negligent manner when considering the aforementioned deficiencies. USPAP 1-1(c).
- i) The Respondent's appraisal report does not clearly and accurately set forth the appraisal in a manner that will not be misleading. USPAP 2-1(a).
- j) The Respondent's appraisal report does not contain sufficient information to enable the person who is expected to receive or rely on the report to understand it properly. USPAP 2-1(b).

(Testimony of Alan Hummel; State Exhibits H, I)

11. The third appraisal, which was prepared and communicated by the Respondent on January 1, 1998, was not labeled as to which reporting option was being used. Mr. Hummel felt that it most closely resembled a summary report. Mr. Hummel identified the following deficiencies in this appraisal:

- a) The appraisal report fails to indicate what reporting option is being used. USPAP 2-2.
- b) The appraisal report fails to consider and identify the intended use and users of the appraisal. USPAP 1-2(a), 2-2(b)(iii)
- c) The Respondent committed a substantial error of omission or commission that significantly affected the appraisal. The analyses used do not appear to be market oriented. The information is presented in a manner that is confusing to the reader and convoluted in content. USPAP 1-1(b).
- d) The Respondent's appraisal report does not clearly and accurately set forth the appraisal in a manner that will not be misleading. The appraisal report contains information that does not appear to be relevant to the problem, and lacks information to support conclusions drawn by the Respondent. USPAP 1-1(c). USPAP 2-1(a).
- e) The Respondent's appraisal report does not contain sufficient information to enable the person who is expected to

receive or rely on the report to understand it properly.  
USPAP 2-1(b).

f) The Respondent has rendered appraisal services in a careless or negligent manner based upon the aforementioned instances. USPAP 1-1(c).

(Testimony of Alan Hummel; State Exhibits J, K)

12. Mr. Hummel expressed concern for both the manner in which these three appraisals were developed and the manner in which they were reported. The Respondent substantially failed to comply with USPAP. The appraisals indicate negligence and incompetence on the Respondent's behalf. Mr. Hummel indicated that his level of concern was very high and he felt that the Respondent is a danger to the public. (Testimony of Alan Hummel).

13. The Respondent admitted that the appraisals were not completed in compliance with USPAP. He stated that he has not taken a refresher course for at least two years and would be willing to undergo any course required by the Board to come into compliance with USPAP. (Testimony of Respondent).

14. The Respondent also testified about his extensive experience with technical evaluations. He stated that prior to this hearing he did not believe that technical evaluations were covered by USPAP, but now he understands that these evaluations are covered by USPAP. (Testimony of Respondent)

#### CONCLUSIONS OF LAW

##### COUNT I

1. 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.

**543D.18 Standards of Practice**

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

2. 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.

3. The 1998 USPAP contained the following relevant standards:

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.

Standards Rule 1-2

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines:

(a) adequately identify the real estate, identify the real property interest, consider the purpose and intended use of

the appraisal, consider the extent of the data collection process, identify any special limiting conditions, and identify the effective date of the appraisal.

Standards Rule 1-3

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines:

(a) 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, market area trends, and the highest and best use of the real estate;

(b) recognize that land is appraised as though vacant and available for development to its highest and best use and that the appraisal of improvements is based on their actual contribution to the site.

Standards Rule 1-4

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines, when applicable:

(a) value the site by an appropriate appraisal method or technique;

(b) collect, verify, analyze, and reconcile:

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

Standards Rule 1-5

In developing a real property appraisal, an appraiser must:

(a) consider and analyze any current Agreement of Sale, option, or listing of the property being appraised, if such information is available to the appraiser in the normal course of business;

(b) consider and analyze any prior sales of the property being appraised that occurred within the following time periods:

(i) one year for one-to-four family residential property, and

(ii) three years for all other property.

(c) consider and reconcile the quality and quantity of data available and analyzed within the approaches used and the applicability or suitability of the approaches used.

Standards Rule 2-1

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

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Appraisal Report.

...  
(b) The Summary Appraisal Report must:  
...

(ii) state the real property interest being appraised;

(iii) state the purpose and intended use of the appraisal;

(vi) summarize the extent of the process of collecting, confirming, and reporting data;

(viii) summarize the information considered, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;

Comment: This requirement calls for the appraiser to summarize the data considered and the procedures that were followed. Each item must be addressed in the depth and detail required by its significance to the appraisal. The appraiser must be certain that the summary is sufficient enough that the client and the intended users of the report will understand it and will not be misled or confused. The substantive content of the report, not its size, determines its compliance.

(ix) summarize the appraiser's opinion of the highest and best use of the real estate, when such an opinion is necessary and appropriate;

(x) explain and support the exclusion of any of the usual valuation approaches;

(xi) summarize any additional information that may be appropriate to show compliance with, or clearly identify and explain permitted departures from the specific guidelines of Standard 1;

4. The Board agrees with the analysis and conclusions of the expert witness who reviewed the three appraisals. The preponderance of the evidence established that the Respondent violated Iowa Code sections 543D.17(1)(d) and 543D.18(1) and 193F IAC 7.1(5) when he prepared and communicated three real estate appraisals which violated USPAP standards. Specifically, the appraisals violated the Standards Rule 1-1(a), (b) and (c); 1-2(a); 1-3(a) and (b); 1-4(a), (b)(i) and (iii); 1-5(a), (b) and (c); 2-1(a) and (b); and 2-2(b)(ii), (iii), (vi), (viii), (ix), (x) and (xi).

COUNT II

5. Iowa Code section 543D.17(1)(e) provides, in relevant part:

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

6. The preponderance of the evidence established that the Respondent violated Iowa Code section 543D.17(1)(e) by failing to exercise reasonable diligence in the preparation and communication of three real estate appraisals.

COUNT III

7. Iowa Code section 543D.17(1)(f) provides, in relevant part:

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


8. The preponderance of the evidence established that the Respondent negligently developed four real estate appraisals, negligently prepared the appraisal reports and negligently communicated the appraisals, in violation of Iowa Code section 543D.17(1)(f). The Board determines that, while the Respondent possesses a vast amount of knowledge concerning appraisals, the types of deficiencies noted in the appraisals constitute a sufficient basis for a finding of incompetency. The Respondent appears to lack a basic grasp of USPAP and its requirements.

DECISION AND ORDER

IT IS THEREFORE ORDERED, that Charles R. Stauduhar, Certificate No. CG01653, shall be revoked for a period of at least two years.

IT IS FURTHER ORDERED, that if the Respondent at the conclusion of the two years desires to have the revocation lifted he must apply to the Board as if a new licensee, retake any required USPAP classes, retake required USPAP exams and make a personal appearance before the Board.

Dated this **5<sup>th</sup>** day of February, 1999.

  
Nancy M. Larson, Appraiser  
Chairperson  
Iowa Real Estate Appraiser Examining Board

cc: Pamela Griebel

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