

**BEFORE THE MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

**IN THE MATTER OF:
DONALD P. WISE
LICENSE NO: RA-363**

NO. 01-1701

CONSENT ORDER

This matter came before the Mississippi Real Estate Appraiser Licensing and Certification Board (Board) for entry of a Consent Order regarding the Respondent **DONALD P. WISE**, who has been issued Mississippi Real Estate Appraiser License No. RA-363. This action is before the Board as the result of Respondent's appraisal of real property located at 640 Sunflower Avenue, Indianola, Mississippi 38751. By entering into this Consent Order, Respondent Wise waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement by consent on this matter, the Board issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

The Mississippi Real Estate Appraiser Licensing and Certification Board is charged by law with the regulation of the practice of real estate appraisal including matters relating to real estate appraiser standards, qualifications and licensing, and disciplinary functions pursuant to Title 73, Chapter 34 of the Mississippi Code, as amended. The Board, pursuant to this authority, has full, complete and proper jurisdiction over the parties and the subject matter herein.

II.

Respondent DONALD P. WISE is an adult resident of Mississippi whose last known address of record with the Board is 48 Tate Road, Greenville, Mississippi 38701. Respondent is the holder of a real estate appraiser's license, No. RA-363, issued by the Board pursuant to Miss. Code Ann. §§73-34-1, *et seq.*, as amended, and, as such, he is subject to all of the provisions, rules, regulations and statutes governing the appraisal of real property and licensing of real estate appraisers under Mississippi law.

III.

On or about September 20, 2016, Respondent Wise performed an appraisal of property located at 640 Sunflower Avenue, Indianola, Mississippi, 38751 and issued an Appraisal Report (sometimes hereafter "Report").

IV.

Respondent did not provide verified documentation or analysis in the work file for certain information stated in the referenced Appraisal Report. The Report contained several inconsistencies when compared to information contained in the work file. Respondent does have some documentation in the work file, including hand written notes with sale price and date of sale, but no verification of condition, GLA, room count or other amenities for comparables stated in the report. No justification of bedroom and bath adjustments as compared to the subject. Respondent utilized comparables from Leland, Hollandale and Isola, Mississippi which are out of the market area for the subject property located in Indianola, Mississippi.

V.

Respondent did not follow certain instructions specified in the "Letter of Engagement." Respondent was requested to include a statement regarding appraisal independence within the report and was provided an example. No such statement was found in the report. Effective age of the subject deviates from the actual age by more than 20% and the client requested an explanation to detail specific improvements or deficiencies to support the effective age. No such explanation or detail was contained in the report. Letter of Engagement for the sales comparison approach suggested selection of comparables be within a certain range; for this rural property, proximity of comparables to the subject rural property should be within 10 miles. All but one of the comparables used in the report were located from 11 miles to 21 miles from the subject with no explanation contained in the report to explain why the appraiser deviated from the instructions. The "Prior Sale History" section of the order request states "if the subject has a recent sale history, reconcile the prior sale and current opinion of value..." The report states that the subject sold "7-15-2014" in the amount of \$175,000.00, which was not stated or analyzed within the sales comparison approach grid in the report but was noted in the comments and FIRREA Addendum. No further comment on the reconciliation of the prior sale was included within the report. In the "Interior Inspections" section of the letter of engagement, Respondent was instructed to note in the report if the utilities/mechanicals were on and working at the time of the inspection yet no such information was contained in the report.

VI.

Respondent did not properly analyze the subject legal description or tax parcel information. More than one parcel was submitted to the appraiser. Acres reported are

questionable and Respondent should have verified exactly what acreage is included with the subject property. There was more than one parcel to the subject property and Respondent only listed one parcel number and included only one property tax amount in the report. The subject legal description reflected a High Pressure Gas Pipeline easement that was not stated in the report. It appears this gas line is close to the subject property. Respondent failed to identify this easement and any effect on the marketability or value of the subject property. The report contained no disclosure if this easement is leased by the Atmos Gas Company. The legal description further shows what could be a shared driveway. This was not disclosed or analyzed to explain the effect, if any, on the subject property.

VII.

Respondent did not provide an explanation of the analysis for the adjustments for the bedrooms and baths. In one area, Respondent adjusted \$2,000 for ½ bath and only \$3,500 for a full bath. Respondent adjusted \$1,000 for 3 versus 4 bedrooms, with no disclosure or explanation of the reasoning to support the adjustment.

VIII.

Respondent stated no method and provided no verified documentation or analysis in support of the conclusion for the cost approach to value stated in the Appraisal Report. Respondent identifies the use of Marshall & Swift as the source for reproduction cost data and states "See attached Sketch" without further comment or analysis. The Appraisal Report reflects Respondent reached a conclusion as to site value as "site value from sales of vacant land in the market area and property record card" but provided no analysis in support of the conclusion and no documentation of the percentage applied to reach the conclusion.

CONCLUSIONS OF LAW

IX.

Respondent DONALD P. WISE admits and agrees, by consent with the Board, that the above and foregoing described actions and conduct constitute violations of Miss. Code Ann. §73-34-35(1)(l), and §73-34-37, as amended, and more specifically the Years 2016-2017 Uniform Standards of Professional Appraisal Practice (USPAP) Record Keeping Rule, Scope of Work Rule (*Problem Identification, Scope of Work Acceptability and Disclosure Obligations*), and Standards Rules 1-1(b), 1-2(e)(i)(iv)(h), 1-4(a)(b)(i)(ii) and (iii), 1-5(b) and 2-1(b), 2(a)(iii)(vii) and (viii), which state in relevant parts:

§73-34-35(1): ...[T]he rights of any licensed appraiser or licensed certified real estate appraiser may be revoked or suspended, or the holder of the license may be otherwise disciplined, in accordance with the provisions of this chapter for ...:

(l) Any act or conduct, whether the same or of a different character than specified above, which constitutes or demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; or any other violation of the provisions of this chapter and of rules and regulations established by the board.

§73-34-37: Each real estate appraiser licensed under this chapter must comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice...

2016-2017 USPAP REQUIREMENTS

RECORD KEEPING RULE: An appraiser must prepare a workfile for each appraisal, or appraisal review assignment. A workfile must be in existence prior to the issuance of any report...

The workfile must include:

- all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other documentation...

SCOPE OF WORK RULE: For each appraisal, appraisal review assignment, an appraiser must:

1. identify the problem to be solved;
2. determine and perform the scope of work necessary to develop credible assignment results; and
3. disclose the scope of work in the report.

An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.

Problem Identification: An appraiser must gather and analyze information about those assignment elements that are necessary to properly identify the appraisal, appraisal review problem to be solved.

Comment: ...In an appraisal assignment, for example, identification of the problem to be solved requires the appraiser to identify the following assignment elements:

- subject of the assignment and its relevant characteristics; and
- assignment conditions.

This information provides the appraiser with the basis for determining the type and extent of research and analyses to include in the development of an appraisal...

Assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.

Scope of Work Acceptability: The scope of work must include the research and analyses that are necessary to develop credible assignment results.

Determining the scope of work is an ongoing process in an assignment. Information or conditions discovered during the course of an assignment might cause the appraiser to reconsider the scope of work.

An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

Disclosure Obligations: The report must contain sufficient information to allow intended users to understand the scope of work performed.

Comment: Proper disclosure is required because clients and other intended users rely on the assignment results. Sufficient information includes disclosure of research and analyses performed and might also, include disclosure of research and analyses not performed.

STANDARD RULE 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Standards Rule 1-1: In developing a real property appraisal, an appraiser must:

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

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data and other information that would have a significant effect on the credibility of the assignment results.

Standards Rule 1-2: In developing a real property appraisal, an appraiser must:

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:

- (i) Its location and physical, legal, and economic attributes;
- (iv) Any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature;

(h) determine the scope of work necessary to produce credible assignment results in accordance with the Scope of Work Rule.

Standards Rule 1-4: In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

- (i) develop an opinion of site value by an appropriate appraisal method or technique;

(ii) analyze such comparable cost data as are available to estimate the cost anew of the improvements (if any)

(iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation)....

Standards Rule 1-5: When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

(b) Analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

STANDARD RULE 2: REAL PROPERTY APPRAISAL, REPORTING

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Standards Rule 2-1: Each written or oral real property appraisal report must:

(c) Contain sufficient information to enable the intended users of the appraisal to understand the report properly;

Standards Rule 2-2: Each written real property report must be prepared under one of the following options and prominently state which option is used: Appraisal Report, or Restricted Appraisal Report.

(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal, and at a minimum:

(iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property

characteristics relevant to the assignment;

- (vii) summarize the scope of work used to develop the appraisal;
- (viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusions of the sales comparison approach, cost approach or income approach must be explained.

DISCIPLINARY ORDER

X.

The Board, by Respondent **DONALD P. WISE**'s agreement and consent, hereby Orders and imposes discipline as follows:

1. Respondent shall complete a fifteen (15) hour 2016-2017 national USPAP course, and pass the accompanying examination, within one hundred eighty (180) days of the execution of this Consent Order. The Board staff recommends that the Respondent complete the mandated USPAP course in a classroom environment, if applicable.
2. Respondent shall complete a seven (7) hour Defendable Work File Course, within one hundred and eighty (180) days of the signing of this Consent Order.
3. Respondent shall complete a fifteen (15) hour Advanced Residential Sales Comparison Approach and pass any accompanying examination, within one hundred eighty (180) days of the execution of this Consent Order.
4. The credit hours generated by the successful completion of the above mandated courses may not be used to satisfy the twenty-eight (28) hours of continuing education that are required for renewal.

5. Respondent expressly agrees that failure to comply with any of the terms of this Consent Order, within the time period ordered, shall constitute grounds for additional disciplinary action by the Board. Respondent agrees further that failure to complete the above mandated courses, within the time period ordered, will affect the immediate placement of Respondent's license in inactive status until such time as Respondent provides the Board with proof of completion of said mandated courses and full compliance with the terms of this Consent Order.
6. This action and Order of the Board shall be public record and shall be spread upon the Minutes of the Board as its official act and deed.
7. This disciplinary action shall be reported to and posted with the appropriate authorities. This action shall also be published in the Disciplinary proceedings section of the MAB website.
8. Respondent, by his signature, waives any and all objections or legal challenges he may have regarding or arising out of this matter, the entry of the Consent Order, or any of its terms. He expressly waives any legal objections that may be otherwise available to him as to the Board taking this matter up preliminarily for the purpose of considering and voting on whether or not to enter into this Consent Order.
9. Should the Board decline the entry of this Consent Order, Respondent understands and acknowledges that he remains entitled to a fair and impartial hearing of this matter before the Board.

10. This Order with respect to Respondent DONALD P. WISE will be effective upon the date he executes this Consent Order.

SO ORDERED, this the 25 day of May, 2017.

MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: *Douglas H. McKinnon*
Doug McKinnon, Chairperson
For and on Behalf of the Board

AGREED:

D. Wise
DONALD P. WISE

4-27-17
DATE

