

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : **FINAL DECISION AND ORDER**
DARRIN J. LEBRUN, : **LS0208281APP**
RESPONDENT. :

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Darrin J. LeBrun
Becher-Hoppe Assoc. Inc.
330 Fourth St.
PO Box 8000
Wausau, WI 54402-8000

Bureau of Business Licensure & Regulation
Wisconsin Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. **Darrin J. LeBrun** ("LeBrun"), date of birth 04/29/67 is licensed/certified in the state of Wisconsin as a Certified General Appraiser, having license # 10-1041. This license/certificate was first granted to him on 01/21/00. LeBrun's most recent address is 330 Fourth St., Wausau, WI 54402.
2. The Department received a complaint against LeBrun from an Attorney who complained and alleged that respondent was engaged in a conflict, and had taken a condemnation appraisal assignment which he was not competent to perform by education or experience.
3. Specifically, complainant maintained that his law firm had retained Steigerwaldt Land Services, Inc. (SLS), to appraise certain real estate for purposes of condemnation, on behalf of Iron County. Edward Steigerwaldt, Certified General Appraiser, owner and president of SLS performed the subject appraisal.
4. During the time SLS performed the appraisal for Iron County, LeBrun was an employee of SLS as a real estate appraiser in training. Shortly after he obtained his certification as a real estate appraiser, he left SLS and joined Becher-Hoppe Associates, Inc. About one month after he began his employment with Becher-Hoppe Associates, Inc., the landowner entered into a contract with Becher Hoppe Associates, Inc. to perform an appraisal of the landowner's property. Respondent performed the subject appraisal for the landowner on behalf of Becher Hoppe Associates, Inc.
5. In 2000, litigation began between the County of Iron and the landowners, in which LeBrun was a witness on behalf of the landowners while his previous employer, SLS, represented Iron County as an expert. The dispute involved damages to which the landowners, in the eminent domain case, were entitled to as a result of the County taking a 16 foot wide abandoned railroad right-a-way across the owner's land for use as a recreational trail. The county argued that the landowners were entitled to just compensation in the amount of \$400.00 for the .68 acres of land which was taken. The landowners claimed that they were entitled to just compensation in the amount of \$186,150.00.

6. On or about November 30, 2001, the State of Wisconsin Circuit Court of Iron County issued a Decision and Order, case number 98-CV-87, and found that the "landowners were entitled to the sum of \$400.00 in just compensation on account of the taking."

A copy of the Wisconsin Circuit Court of Iron County Decision and Order for case number 98-CV -87 is attached as **Exhibit 1** and is hereby incorporated herein by reference.

7. In the Decision the "Court found that LeBrun's conclusions concerning the impact of the condemnation upon the land's highest and best use to be wholly unpersuasive. The Court did not believe that the type of residential development which LeBrun assumed was ever feasible or probable. The Court found LeBrun to be completely unpersuasive. First, despite his disclaimer to the contrary, it appeared to the Court that LeBrun's methodology runs contrary to the "unit rule" under which compensation is to be awarded from the land itself rather than from the sum of the different interests. LeBrun's precondemnation valuation of \$235,000.00 strikes the Court as fantastic. Given that the defendants purchased the property only six years before for \$15,000.00, and given that LeBrun failed to articulate any credible basis for believing that it, unlike land generally in Iron County, would have appreciated to 15 times that value in six years, the court can only conclude that his opinion on precondemnation value was derived from his questionable assignment of contributory values to such things as the bridge and the road gravel. The Court also found LeBrun's comparable sales data to be much less valuable than that of Steigerwaldt. LeBrun appeared to use data from much smaller parcels in some instances and, in others, from distant real estate markets, such as Sawyer County, without adequate adjustments for dissimilarities. Indeed, given the magnitude of the dissimilarities, much of the data did not appear to the Court to constitute reliable comparison data. LeBrun's assignment of only \$49,600.00 value to the land remaining after condemnation of .68 acres out of 160 acres strikes the Court as an opinion unworthy of belief. LeBrun's assumptions about loss of development potential as a result of assumed loss of access over the bridge, the Court, likewise found unpersuasive." Finally, the court found LeBrun "generally, to be an unpersuasive witness in whose expertise the Court reposed little confidence. His opinions were impeached on significant points by contradictory assertions in his pretrial deposition. Although his opinion relied heavily upon his assumption that the land highest and best use was for residential development, he did not know whether any of the land was even capable of passing a perc test and, in fact , initially expressed a belief that the perc test had to do with wells rather than septic systems. Consequently, the Court declines to afford any weight to the testimony of LeBrun."

8. Subsequent to reaching a negotiated settlement in these proceedings, and in anticipation of the approval/adoption by the Board of this Stipulation and Final Decision and Order, LeBrun took and successfully completed Appraisal Institute class course #710, "Condemnation Appraising, basic principles & applications," as evidenced by Exhibit "3" attached hereto; and a four (4) month period of performing Eminent Domain/Condemnation Appraisals under the supervision of a certified general appraiser who is so competent/qualified, as evidenced by Exhibit "2."

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to sec. 440, Wis. Stats.
2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
3. Respondent **Darrin J. LeBrun** has violated:
 - a. Sections 458.26(3)(c), (e) of the Wisconsin Statutes by (c), engaging in conduct while practicing as an appraiser which evidenced a lack of knowledge or ability to apply professional principles or skills and (e), advertised in a manner that is false, deceptive or misleading, and Wis. Adm. Code Sec RL 86.01(6), a certified or licensed appraiser shall not offer to perform, nor perform, services which he or she is not competent to perform through education or experience.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

As a result of the above Findings of Fact of paragraph 8, supra, Respondent has complied with items 1 through 3 of the Limitations and Conditions of the Scope of Practice as set forth hereinafter, and shall hereafter comply with all other limitations of the Scope and Practices, as set forth hereinafter.

SCOPE OF PRACTICE: LIMITATIONS AND CONDITIONS

1. Respondent neither admits nor denies the allegations, but to resolve the captioned matters, hereby agrees and consents to limitations on his Certified General Appraisal Certificate of Licensure and Certification previously issued to him with Respondent; to cease and desist from performing Eminent Domain/Condemnations appraisals, except as limited by the terms of this Stipulation; and to pay the amount of \$1,000.00 assessment of costs; and take and successfully complete the Appraisal Institute course #710, "Condemnation Appraising, Basic Principles and Applications," given over 2 days, which shall not count or be credited toward Respondent's required continuing education. Receipt of which is acknowledged.

a. The effective date of this Stipulation is ten (10) days after the Board's Final Decision and Order adopting the Stipulation agreement.

2. Following successful completion of the Board ordered education and submission of proof of successful completion to the Department's Monitor (receipt of which is acknowledged), Respondent may commence doing Eminent Domain/Condemnation appraisals under the supervision of a Certified General Appraiser who is so competent/qualified for a period of not less than four (4) months.

3. The name of any supervising appraiser that Respondent chooses shall be presented to the Board or its designee prior to the commencement of supervision of Respondent's Eminent Domain/Condemnation appraising. The Board warrants that any supervising appraiser shall not be subject to disciplinary action under USPAP's Standard Rule 2-5, Standard Rule 3, or otherwise as a result of any supervision of Respondent required by this Stipulation.

4. Before Respondent may independently commence doing Eminent Domain/Condemnation appraisals, the supervising/reviewing appraiser must submit a letter to the Board or its designee, attesting that Respondent, in his/her professional opinion is competent to independently Eminent Domain/Condemnation appraisals. If Respondent commences doing the subject appraisals independently, he shall submit the first three appraisal products to department monitor at the time of completing the appraisal reports for USPAP's compliance review(s).

5. If, after Respondent commences doing the subject appraisals independently, the Board determines his appraisals are not per USPAP, then Respondent's Certified General Certification, may be permanently limited re the subject appraisals; he may be ordered to apply for a lesser-level appraisal certification, or the Board may take other appropriate disciplinary action.

6. Any failures to comply with the terms of this Stipulation and the Board's Order are grounds for further discipline.

7. No later than 10 days after the effective date of the Board's Order, Respondent shall submit all Certified General Certificates previously issued to him to the Department's monitor, at which time he will be issued a limited certification consistent with the terms of this Stipulation.

8. The payment of the \$1,000.00 costs shall be paid within 3 months of the effective date of the Board's Order. Payment shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent to: **Department of Regulation and Licensing, Division of Enforcement, Department Monitor, PO Box 8935, Madison, WI 53708-8935.**

9. In the event that Respondent **Darrin J. LeBrun** should fail to pay the \$1,000.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to Respondent **Darrin J. LeBrun**, his real estate appraiser license/certificates shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing, and his failure to pay the costs shall be considered a violation of this Order of the Board.

10. Respondent agrees that this Stipulation Agreement may be incorporated into the Board's Final Decision and Order adopting the Stipulation Agreement.

11. In anticipation that the Real Estate Appraisers Board would have reviewed and acted upon the Stipulation and Final Decision and Order at their April 2002, meeting, Respondent completed the 4-month supervision requirement commencing March 11, 2002, through July 11, 2002, and on March 6, and March 7, 2002, Respondent completed the course requirement. A copy of the supervision contract is attached as **Exhibit 2** and is hereby incorporated herein by reference. A copy of the course record is attached as **Exhibit 3** and is hereby incorporated herein by reference.

Dated this 28th day of August, 2002.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: LaMarr Franklin

A Member of the Board