

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
PETER J. WEIS, : LS0802277APP
RESPONDENT. :

Division of Enforcement case file 07 APP 074

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

Peter J. Weis
29338 River View Parkway
Burlington, WI 53105

Wisconsin Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708-8935

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

PROCEDURAL HISTORY

The parties, in an effort to amicably resolve and settle the allegations against the Respondent without further proceedings and costs, agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, and ask for the approval of same from the Wisconsin Real Estate Appraisers Board ("Board"). The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions and Order. Nothing in the attached Stipulation or this Decision and Order shall be construed as an admission by Peter J. Weis of any of the alleged violations.

FINDINGS OF FACT

1. Peter J. Weis is licensed in the State of Wisconsin as a Real Estate Appraiser having license # 9-990, first granted August 10, 1995. Mr. Weis's most recent address on file with the Department of Regulation and Licensing ("Department") is 29338 River View Parkway, Burlington, WI 53105.

2. The U.S. Department of Housing and Urban Development (HUD) investigated Mr. Weis for alleged USPAP violations in five appraisals. The following are the FHA Case numbers and property addresses for each of the appraisals reviewed:

| <u>FHA Case No.</u> | <u>Property Address</u> |
|---------------------|---|
| 581-2723795 | 1341 W. Lawn Avenue, Racine, WI |
| 581-2724737 | 1162 Vern Street, West Bend, WI |
| 581-2724924 | 2517 S. 84 th Street, West Allis, WI |
| 581-2728774 | 6303 Second Avenue, Lake Geneva, WI |
| 581-2733354 | 201 Cedar Street, Johnson Creek, WI |

3. HUD identified the following concerns with the five appraisals:

(1) Alleged failure to provide an analysis of the Listing and Agreement of Sale for the subject property in accordance with USPAP requirements, HUD Handbook 4150.2, and Mortgagee Letter 2005-02.

1162 Vern St. The allegation is that the sales contract at the time of the appraisal showed seller agreed to pay specific moneys towards buyer's closing costs, prepaids, down payment, and processing fees, whereas Respondent stated in the report that the amount of the seller concessions was "Unknown-Contract unavailable."

6303 Second Ave. The allegation is that in the "Contract" section of the report, Respondent stated he analyzed the contract for sale, whereas the allegation is that he failed to provide the results of the analysis and failed to address why the subject property sold for more than the list price after typical days on the market and with seller concessions.

201 Cedar St. The allegation is that in the "Contract" section of the report, Respondent stated he did not analyze the contract for sale because it was faxed and he was unable to read it, whereas Respondent is responsible for obtaining a copy that was legible. The allegation is also that the sales contract for the property did show concessions from seller to be used for the buyer's down payment, closing costs, prepayments, escrows, and buyer's broker fee, whereas the Respondent failed to analyze why subject sold for more than the list price.

(2) Alleged failure to provide accurate, specific data and adjustments for the subject and comparable properties as required by HUD Handbook 4150.2 and USPAP guidelines.

1341 W. Lawn Ave. The allegation is that the MLS reported that Comparable 1 sold for \$157,000 after being listed for \$141,000, whereas Respondent failed to identify this discrepancy or indicate that he had researched possible seller concessions on this sale. In addition, the allegation is that the assessor's records reported this property was 1,352 sq. feet above grade, not 1,132 as reported by Respondent, whereas further investigation should have been done to resolve these discrepancies.

1162 Vern St. The allegation is that Respondent failed to report that the subject property is located adjacent to commercial property, whereas all three comparables were considered to have superior locations. The allegation is that disclosure and location analysis should have been provided. Per the listing brokers, Comparables 2 and 3 were in good condition with superior updates and remodeling compared to the subject. As a result, it is estimated that the subject property was overvalued over 10% due to Respondent's failure to identify and analyze these factors.

2517 S. 84th St. The allegation is that the Respondent failed to identify that the subject property was located on a feeder arterial road, and that Comparables 1 and 3 were not, and a location adjustment should have been considered. Per the listing brokers, all three comparables were in superior condition compared to the subject with upgrades and remodeling that Respondent failed to identify and analyze in his report. Also, the adjustments for basement finish on Comparables 1 and 2 appear low based on MLS information. Each of these omissions drove the adjusted values of the comparable properties upwards.

6303 Second Ave. The allegation is that the Respondent failed to report or analyze why Comparable 1 sold for more than the list price. Per listing broker, sales price was increased to cover seller concessions; therefore, an adjustment should have been considered. This property also had superior basement finish and a natural fireplace that were not reported or analyzed. Comparable 3 sold for more than the list price due to seller concessions which Respondent also failed to identify and analyze. The age adjustment for Comparable 3 is considered extremely low in comparison to the subject.

201 Cedar St. The allegation is that the Respondent failed to report subject property is located adjacent to Interstate 94 and that an analysis should have been provided in regard to external obsolescence due to traffic and noise. None of the comparables had similar locations, and an adjustment should have been considered. Per listing brokers for Comparables 1 and 2, these properties were in good condition with updates which Respondent failed to report and analyze.

The allegation is that there is no evidence in any of the reports reviewed that Respondent verified the sales data with a third party to the transaction.

(3) Alleged failure to correctly condition the subject appraisal as of the effective date of the appraisal report and/or to identify required repairs for the subject property per HUD Handbook 4150.2 and Mortgagee Letter 2005-48.

2517 S. 84th St. The allegation is that the Respondent indicated on his report that the subject property had some peeling and chipping paint on the detached garage; however, he failed to make a requirement for this condition to be remedied and to appropriately condition the report, "Subject to" the repair.

201 Cedar St. The allegation is that the subject property had a significant structural crack in the basement foundation wall, and the roof shingles were curling, that these items should have been reported and appropriate repair conditions or inspections required, and that the report should have been made "Subject to" these conditions.

(4) Alleged failure to provide a complete and accurate description of the subject property and site in accordance with

HUD Handbook 4150.2, Appendix D, and USPAP requirements.

1341 W. Lawn Ave. The allegation is that the Respondent failed to report an estimate of site value for the subject property.

1162 Vern St. The allegation is that the correct specific zoning for the subject property is B-1 Business. Subject is non-conforming and according to the City Building Inspection Department, could not be rebuilt if dwelling was destroyed beyond 50% of total value. Subject is located adjacent to commercial property. These pertinent factors should have been reported and analyzed to determine property eligibility.

2517 S. 84th St. The allegation is that the Respondent failed to report an estimate of site value for the subject. The accurate zoning for the subject was "RA-2 Residence District," not "Single Family Residential," as reported.

6303 Second Ave. The allegation is that the Respondent failed to identify and report that the subject property consisted of two parcels with two tax key numbers and two tax bills. He also failed to report or analyze the subject's location adjacent to a large farm.

201 Cedar St. The allegation is that the Respondent failed to report or analyze subject abutted Interstate 94. Specific zoning classification was "SR-4 Medium Density," which is residential zoning with minimum site size of 10,890 sq. ft. Respondent also failed to report an estimate of site value for the subject property.

The following additional alleged departures from HUD/FHA directive were noted on review; but the nature of those oversights does not warrant the imposition of sanction at the present time. However continued non-compliance in future appraisal assignments may result in additional administrative action.

(1) Alleged failure to provide a complete and accurate description of the subject property and site in accordance with HUD Handbook 4150.2, Appendix D, and USPAP requirements.

1341 W. Lawn Ave. The allegation is that per County Assessor's records, the correct site dimensions for the subject property are 40' x 128.5'. Therefore, the site area is 5,140 sq. ft., not 4,800 as reported. The street and alley were constructed of concrete, not asphalt.

1162 Vern St. The allegation is that per the recorded plat, the subject site dimensions are 58.50' x 20.70' x 106.42' x 75' x 136.10', and the total site area is 8,973 sq. ft. Accurate site dimensions and area should be researched and reported.

The allegation is that in each report reviewed, Respondent reported that the one-unit housing price range in the area was from \$80,000 to \$2,000,000, and the one-unit housing age ranged from new to 100+-. Each report was from a different area. The demographic information reported should be specific to the area of the property being appraised and not copied from one report to another.

The allegation is that in each report reviewed, Respondent failed to report the condition of the items in the "Exterior Description" section of the report.

4. Mr. Weis commented on the review by stating that the square footage from the assessor's records is not always accurate in his experience of viewing properties and checking these records. In addition, the listing agent's square footage calculations can be deceiving depending on whether or not finished areas below grade are counted; some count this, some do not. Mr. Weis stated the best available comparables are always used, even though they are not considered the most ideal. The condition of comparables per the MLS can be deceiving at times; listing agents are in the business to sell properties and tend to make a property sound better than it really is. If you go with what the listing agent says and do not physically inspect the exterior of the property, than a mistake in the condition of the property could be made. Mr. Weis believes the market values are accurate in all of the reports.

5. HUD removed Mr. Weis from the FHA Appraiser Register for a period of six months effective June 24, 2007, with a requirement that he take remedial education in accordance with HUD Handbook 4150.2 Change 1, Valuation Analysis for Home Mortgage Insurance for Single Family One-to Four-Unit dwellings, issued July 1, 1999.

CONCLUSIONS

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

2. Peter J. Weis is subject to discipline for having allegedly violated Wis. Adm. Code sec. RL 86.01 (1) and (2) by failing to comply with USPAP in his appraisals and appraisal reports. Specifically, he is alleged to have violated:

- Standards Rule (SR) 1-1b & 1-1c by failing to report the condition of property and possible repairs needed on two reports, thereby committing a substantial error of omission or commission that significantly affects an appraisal, and rendering appraisal services in a careless or negligent manner;

- SR 1-2e by failing to report estimated site value, specific zoning, parcel size and tax key identification numbers on all five reports, thereby failing to identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal;

- SR 1-4a by not analyzing such comparable sales data as are available to indicate a value conclusion when a sales comparison approach is necessary for credible assignment results, in all five reports;

- SR 1-5a by not analyzing all agreement of sale, options, and listings of the subject property as of the effective date of the appraisal for three of the reports;

ORDER

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

IT IS FURTHER ORDERED that the Real Estate Appraisers license issued to Peter J. Weis shall be suspended for a period of 15 days, commencing April 28, 2008. During the period of suspension, Mr. Weis will not perform appraisal work, but he will be allowed to respond to client needs, including the preparation of any necessary follow-up documents, based upon appraisal work performed prior to the period of suspension, and he will be allowed to schedule appointments for work to be performed following the termination of the suspension.

IT IS FURTHER ORDERED that within nine months of the date of this Order, Peter J. Weis must successfully complete an Appraisal Institute course in Appraisal Principles or Appraisal Procedures, or an equivalent course approved by the Department of Regulation and Licensing. Mr. Weis shall submit proof of successful completion in the form of verification from the institution providing the education to the following address:

Department Monitor
Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Fax (608) 266-2264
Tel. (608) 261-7904

None of the education completed pursuant to this order may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing. In the event Mr. Weis fails to successfully complete the educational requirements in the manner set forth, his Real Estate Appraisers license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until he provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Peter J. Weis pay the Department's costs of this matter in the amount of **\$264.02** within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor. In the event Mr. Weis fails to pay the costs within the time and in the manner as set forth above, his Real Estate Appraisers license shall be suspended without further notice, 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.

IT IS FURTHER ORDERED that file 07 APP 074 be closed.

Dated this 27th day of February, 2008.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A member of the Board