

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**
DAVID H. MOULTON, : LS09111115APP
RESPONDENT. :

Division of Enforcement case file 08 APP 063

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

David Moulton
445 Cheshire Lane
Pewaukee, WI 53072

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 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 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 of Law, and Order:

FINDINGS OF FACT

1. David H. Moulton is licensed in the State of Wisconsin as a Real Estate Appraiser with license number 4-1096, first issued on February 3, 1998.
2. Mr. Moulton’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 445 Cheshire Lane, Pewaukee, WI 53072.
3. Mr. Moulton signed as supervisor for an appraisal and appraisal report prepared by Rick Golden for property at 1647 Villa Street in Racine, Wisconsin as of August 19, 2003. The estimate of value was \$120,000.
4. Under the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule (S.R.) 2-3, a person who signs an appraisal report as a supervisor accepts full responsibility for the work.
5. In the appraisal and the report, Mr. Golden and Mr. Moulton failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:

The subject is located in Racine, WI. The reviewer was James Barrette. Mr. Barrette is a Certified General Appraiser, but he does practice in the field of residential appraisals in this geographic area. Mr. Barrette made the following comments:

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

In my opinion the comparable sales are “not adequate” and do not adequately represent the subject property for the following reasons.

1. The comparables selected by the original appraiser are all from over a mile away and outside of the subject neighborhood in superior locations while there is an ample supply of adequate comparable sales within a mile of the subject in the subject neighborhood that better represent the subject property.
2. My market analysis indicated 15 superior comparables in the subject neighborhood which ranged in price from \$14,000 to \$85,000 with a median sale price of \$45,000.
3. All comps I selected are within a 1 mile radius, in the same neighborhood, are comparable old style 1, 1.5 story or 2 story homes comparable in age and other physical characteristics to the subject.

Standards Rule 1-1(a) — An appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible result.

The adjustments applied do not adequately reflect what the market commands for differences in square footage and garage size based on market data analysis.

1. The comparable sales selected are all larger than the subject and then a very small downward adjustment applied for differences in square footage.
2. By selecting all larger comparables and then underestimating the square footage adjustment differences the appraiser effectively skewed the estimate of market value upwards. The appraisal under review used a \$5/SF unit adjustment. Although selecting an exact square footage adjustment is difficult due to the effects of estimating depreciation for older homes. Typically a value of \$20 to \$30 per square foot is most common for older homes such as the subject.
3. Also, the appraiser only adjusted upward \$2000 for a 2 car garage size difference which appears to be substantially less than what the market would consider appropriate. Typically a \$2000 to \$5000 per garage space adjustment is warranted which totals \$4000 to \$10,000 for a 2 car garage.

Competency Rule

The appraiser did not appear to be familiar with the area and did not disclose lack of knowledge of the area and take appropriate steps to complete the assignment competently. In addition, the appraiser did not describe the lack of knowledge and/or experience and steps taken to complete the assignment competently in the report. The appraiser improperly identified the defined neighborhood and expanded the neighborhood boundaries to include his selected comparables. The subject area is an older neighborhood near Lake Michigan separated to the west by a set of Rail road tracks. West of the tracks the homes are typically between 30 and 50 years newer and with typically superior condition and appeal. The selection of comparable sales in superior locations apparently resulted in a substantial overestimate of market value.

The Sales Comparison comment made by the original appraiser that most sales within a 10 block radius of the subject are ranch style homes is not true. The subject area is an older section of the City of Racine with very few ranch style homes. The area consists primarily of older style multi- level homes.

In conclusion, the appraiser and supervisory appraiser violated Standards Rule 1-4(a), 1- 1(a) and the Competency Rule.

- An appraiser’s technique is supposed to use comparables that are most like the subject physically and geographically. The subject neighborhood was incorrectly expanded to adjacent different age and makeup neighborhoods. The selection of comparable sales are all outside of the subject area and in superior neighborhoods. In addition, they are all larger in size than the subject with unusually small unit price adjustments which in effect skewed the estimate of market value upwards substantially. The value obtained is \$35,000 higher than the high end range of comparable sales selected by this review appraiser and \$75,000 higher than the median sales price for comparable properties in the subject neighborhood. In my opinion, it appears to this appraiser that the trainee was incompetent and the supervisory appraiser did not adequately review the work of the trainee.

CONCLUSIONS OF LAW

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. By failing to comply with USPAP in the appraisal and the appraisal report for property at 445 Cheshire Lane, Pewaukee, WI 53072, Respondent David H. Moulton violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, and is subject to discipline under section 458.26 (3), Wis. Stats.

ORDER

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

IT IS FURTHER ORDERED that within one year of the date of this Order, the respondent, David H. Moulton, must successfully complete one class in appraisal principles and one case studies class. The classes may be the following from the Appraisal Institute:

- Basic Appraisal Principles (30 hours)
- Residential Report Writing and Case Studies (15 hours)

or they may be equivalent coursework taken from any educational institution approved by the Department of Regulation and Licensing and approved in advance through the Department Monitor:

Department Monitor
Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Fax (608) 266-2264
Tel. (608) 267-3817

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.

Mr. Moulton shall submit proof of successful completion in the form of verification from the institution providing the education to the Department Monitor.

In the event Mr. Moulton fails to successfully complete the educational requirements in the manner set forth, or to obtain an extension of time for good cause, 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 the Real Estate Appraisers license issued to David H. Moulton is hereby LIMITED as follows:

- for a period of 2 years from the date of this order, Mr. Moulton shall not supervise the appraisal work of others. This limitation shall automatically expire and be removed from Mr. Moulton's license at the end of 2 years, if he has completed the education ordered above.

IT IS FURTHER ORDERED that Mr. Moulton pay the Department's costs of this matter in the amount of **\$322.70** 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. Moulton 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 08 APP 063 be closed.

Dated this 11th day of November, 2009.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton, Board Chair