

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **FINAL DECISION AND ORDER**
PETER A. MOEGENBURG, :
 : **LS0902258APP**
 :
RESPONDENT. :

Division of Enforcement Case No. 07 APP 111

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

Peter A. Moegenburg
155 South Executive Drive Suite 212
Brookfield, WI 53005

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 decision of the matter, subject to the approval of the Real Estate Appraisers Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Peter A. Moegenburg (Moegenburg), whose last known address of record with the Department of Regulation and Licensing (Department) is 155 South Executive Drive, Suite 212, Brookfield, WI 53005, and whose date of birth is May 16, 1960, possesses a certificate of certification and certificate of licensure as a Certified General Appraiser (#10-296). The license was first granted on September 22, 1992, and will expire on December 14, 2009.

2. On December 18, 2006, Mr. Moegenburg issued an appraisal of commercial real property located at 4200 North Port Washington Road, Glendale, Wisconsin, which consisted of existing office and warehouse space, and which also considered proposed expansions to the existing space.

3. The review of the appraisal reports shows violations of the applicable Uniform Standards of Professional Appraisal Practice (USPAP) including, but not limited to, the following:

a. USPAP Standards Rule 1-1(a), which requires appraisers to, "...correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal," by failing to determine the amount of finished office space for five of the eleven comparable sales selected when employing the sales comparison approach to value; by selecting as comparable sales eleven properties that were all significantly smaller than the subject property when employing the sales comparison approach to value; by presuming that the value of the property with proposed improvements would be the current value of the subject plus the planned costs of the improvements when employing the cost approach to value; by failing to provide appropriate support for the concluded market rent rate when employing the income approach; and by failing to make a rent-up deduction when employing the income approach to value.

- b. USPAP Standards Rule 1-2 (g), by failing to specifically identify completion of the proposed work as an extraordinary assumption.
 - c. USPAP Standards Rule 2-1 (b) and (c) by failing to include sufficient information in the report to allow the intended use to understand the concluded market rent, and failing to identify the extraordinary assumption of the work being complete.
 - d. USPAP Standards Rule 2-2, by failing to correctly identify the reporting option used.
4. Per Wis. Stat. § 458.26 (3), "... the board may limit, suspend or revoke any certificate under this chapter... if the... board finds that the... holder of the certificate has done any of the following: (b) Engaged in unprofessional... conduct in violation of rules promulgated under s. 458.24.
 5. Per Wis. Admin. Code § RL 86.01 (2), "All appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I."

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.
2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).
3. By performing appraisals and rendering an appraisal reports that do not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, **Peter A. Moegenburg** has committed four or more violations of Wis. Admin. Code § RL 86.01 (2), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of **Peter A. Moegenburg** (# 10-296) shall be, and hereby is, ordered to complete less than SIXTY (60) HOURS of **EDUCATION IN LIEU OF A REPRIMAND** from the following list of courses: (a) Gen Appraiser Sales Comparison Approach, a 30-hour course offered by the Appraisal Institute; (b) General Appraiser Income Approach Part I OR Part II, which are 30-hour courses offered by the Appraisal Institute; (c) General Appraiser Report Writing Case Studies, a 30-hour course offered by the Appraisal Institute; (d) Advanced Sales Comparison and Cost Approaches, a 4 course offered by the Appraisal Institute; (e) Advanced Applications, a 40-hour course; (f) General Market Analysis and High Best Use, a 30-hour course; and/or (g) Advanced Income Capitalization, a 40-hour course offered by the Appraisal Institute. Successful completion of any course ordered by this paragraph shall be defined to include successful completion of any associated exam, if offered. Any course completed pursuant to this paragraph cannot be counted towards Respondent's continuing education obligations. Equivalent courses from alternative providers may be taken if approved in advance by the Board's Monitoring Liaison.

IT IS FURTHER ORDERED that:

2. **Peter A. Moegenburg** shall pay costs of these investigations in the amount of FOUR HUNDRED DOLLARS (\$400.00) within ninety (90) days of the date of signing of this Order.
3. Proof of completion of coursework, payment of costs, and all other submissions required by the Order shall be mailed, faxed, delivered or otherwise transmitted to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

4. Case number 07 APP 111 is hereby closed.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being and may result in a summary suspension of Respondent's license and certification. The Real Estate Appraisers Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to timely submit any payment of costs as set forth above, or fails to comply with the conditions of this Order, or fails to complete the required education the Respondent's license and certification (#10-296) SHALL BE SUSPENDED, without further notice or hearing, unless Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Sharon Fiedler
A Member of the Board

2/25/09
Date

**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

PETER A. MOEGENBURG,

RESPONDENT.

:
:
:
:
:
:
:

STIPULATION

LS _____

Division of Enforcement Case No. 07 APP 111

It is hereby stipulated and agreed, by and between Peter A. Moegenburg, Respondent; Michael W. Rohr, Attorney for Respondent; and Mark A. Herman, Attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation against Respondent's licensure and certification by the Division of Enforcement (07 APP 111). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Appraisers Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Appraisers Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

PETER A. MOEGENBURG
Respondent
155 South Executive Drive Suite 212
Brookfield, WI 53005

Date

MICHAEL W. ROHR
Krawczyk Duginski & Rohr SC
Attorneys for Respondent
PO Box 510377
New Berlin, WI 53151-0377

Date

MARK A. HERMAN
Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date