

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FRANCIS J. FEIDER,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER
92 REB 024

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

Francis J. Feider
Town and Country Realty, Inc.
1215 Eastern Avenue
Plymouth, WI 53073

Wisconsin Real Estate 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

The parties in this matter agree to the terms and conditions of the
attached Stipulation as the final decision 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. Francis J. Feider is duly licensed in the state of Wisconsin as a
real estate broker (license #30174). This license was first granted on
August 12, 1966.
2. Francis J. Feider latest address on file with the Department of
Regulation and Licensing is 1215 Eastern Avenue, Plymouth, Wisconsin 53073.
3. At all times relevant to the facts set forth herein Francis J.
Feider, hereinafter the Respondent, was the President of Town and Country
Realty, Inc., a real estate corporation duly licensed to practice in the State
of Wisconsin pursuant to license number 3937, originally granted on April 24,
1972.

4. Respondent also at all times relevant to the facts set forth herein was the owner and developer of some property in Fischers Creek Subdivision, Village of Howards Grove, Wisconsin consisting of approximately 120 lots.

5. On or about August 23, 1986 George K. Hoffmann, a broker sales associate employed by Respondent, prepared a Residential Offer-to-Purchase on behalf of John and Carolyn Eickholt for lot 7 of block 3 of Fischers Creek Subdivision. The property address for this purchase was 1027 Hawthorne Drive, Howards Grove, Wisconsin. Respondent was the owner of this property.

6. Line 83 of the August 23, 1986 Eickholts' offer-to-purchase as prepared by George K. Hoffmann reads as follows: "Seller warrants and represents to buyer that the property is not located in a flood plain as per Village Zoning". The words "Village Zoning" are handwritten on the form.

7. The Eickholts' offer-to-purchase was countered by Respondent on August 25, 1986 and the counter-offer was accepted by the Eickholts on or before August 29, 1986.

8. The quoted language in paragraph 6 above, misrepresents the true nature of the property in that subsequent to their purchase, the Eickholts discovered that a large portion of their property was in fact situated in a flood plain and is and was so depicted as being in a flood plain per the applicable Village of Howards Grove zoning map.

9. That a substantial portion of lot 7, block 3 of Fischers Creek Subdivision was in a flood plain was a material fact and an adverse factor within the meaning of RL 24.07(1), Wis. Adm. Code which Respondent should have discovered and disclosed to the Eickholts.

CONCLUSIONS OF LAW

1. By the conduct described above, Respondent is subject to disciplinary action against his license to practice as a real estate broker in the state of Wisconsin, pursuant to Wis. Stats. sec. 452.14, and Wis. Adm. Code ch. 24.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Francis J. Feider has violated sec. 452.14(3)(i), Wis. Stats., and RL 24.07(1), Wis. Adm. Code by his incompetency in misrepresenting in the August 23, 1986 offer-to-purchase that lot 7 of block 3 of Fischers Creek Subdivision was not in a flood plain and in failing to discover and disclose to the Eickholts the fact that a substantial portion of lot 7 of block 3 of Fischers Creek Subdivision was in a flood plain.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. That the attached Stipulation is accepted.

2. That Respondent Francis J. Feider, license number 30174, be, and hereby is, Reprimanded.

3. That the Respondent is ordered to forfeit the sum of \$500.00. The forfeiture must be paid within thirty (30) days of the date of this Order to the Department of Regulation and Licensing, P.O. Box 8935, Madison, Wisconsin 53708.

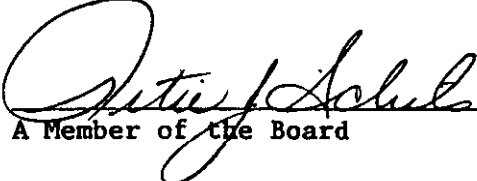
4. IT IS FURTHER ORDERED that in the event that the \$500.00 forfeiture is not paid as set forth above, then the broker's license of Respondent Francis J. Feider (license #30174) shall be indefinitely suspended until he has fully complied with the terms of this Order.

5. IT IS FURTHER ORDERED that investigative file 92 REB 024 be, and hereby is, closed.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

This Order shall become effective ten (10) days following the date of its signing.

REAL ESTATE BOARD

By: 
A Member of the Board

2/25/93
Date

GMS:pw
ATTY-2326

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	92 REB 024
FRANCIS J. FEIDER,	:	
RESPONDENT.	:	

It is hereby stipulated between Francis J. Feider, personally on his own behalf and Gerald M. Scanlan, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Francis J. Feider's licensure by the Division of Enforcement. Francis J. Feider consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Francis J. Feider understands that by the signing of 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 by a 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, and the Wisconsin Administrative Code.


3. Francis J. Feider is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this Stipulation.

4. Francis J. Feider agrees to the adoption of the attached Final Decision and Order by the Real Estate 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 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 for the Division of Enforcement may appear before the Real Estate Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the Stipulation.

7. The Division of Enforcement joins Francis J. Feider in recommending the Real Estate Board adopt this Stipulation and issue the attached Final Decision and Order.


Francis J. Feider

1-22-93
Date


Gerald M. Scanlan, Attorney
Division of Enforcement

1-27-93
Date

GMS:pw
ATTY-2325

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Real Estate Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Real Estate Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Real Estate Board.

The date of mailing of this decision is February 26, 1993.