

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/wscca>.
- 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 THE DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT J. COUNSELL,	FINAL DECISION AND ORDER
RESPONDENT.	LS9911171APP
	97 APP 036

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

*Robert J. Counsell
324 North Oakwood Avenue
Oconomowoc, WI 53066*

*Bureau of Business and Design Professions
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*

The State of Wisconsin, Real Estate Appraisers Board, having considered the Stipulation agreement annexed hereto of the parties, in resolution of the captioned-matter, makes the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Board in Chapter 458, Wis. Stats., and sec. RL 2.12, Wis. Adm. Code, that the Stipulation agreement annexed hereto, filed by Complainant’s attorney, shall be and hereby is incorporated, made and ordered the Final Decision and Order of the State of Wisconsin, Real Estate Appraisers Board.

Let a copy of this order be served on Respondent by certified mail.

Dated this 17th day of November, 1999.

Paul Vozar

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST

ROBERT J. COUNSELL,
RESPONDENT.

STIPULATION
97 APP 036

Respondent Robert J. Counsell, and Complainant's attorney, Henry E. Sanders, Division of Enforcement, having reached agreement for disposition of the captioned-matter, stipulate and agree as follows:

1. Respondent Robert J. Counsell (Counsell), 324 North Oakwood Avenue, Oconomowoc, WI 53066, was at all time material to the complaint, licensed as a Licensed Appraiser, and has been so licensed under the provisions of ch. 458, Wis. Stats., since June 9, 1992.

2. This Stipulation shall be submitted to the Real Estate Appraisers Board (Board) for approval and disposition of the matter. If the terms of the Stipulation are not acceptable to the Board, then the parties shall not be bound by any of the provisions of the Stipulation.

a. This Stipulation is dispositive of Investigative Complaint #97 APP 036.

3. Respondent has been advised of his right to a public hearing on each and every allegation of the complaint, but hereby freely and voluntarily waive his right to a hearing in this matter on the condition that all provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondent further agrees to waive any appeal of the Board's Final Decision and Order adopting the Stipulation Agreement.

4. The Department received a complaint against Respondent which alleged that Respondent exceeded the scope of his license as a licensed appraiser; by appraising a property with his estimate of value of \$2,440,000 dollars as of 11/19/1997; that the subject property was a former school building with a sales history that was never reported, that the property was also apparently leased, yet the fee simple title of real property interest was estimated; and that generally, the appraisal report contained many areas of major non-compliance with USPAP, including very poor documentation for the market value provided.

5. An investigation ensued into the matter, with Respondent Counsell responding to the complaint in pertinent part that:

The party who requested the appraisal was made aware in writing of the Respondent's limitations as a State Licensed Appraiser, but he wanted him to perform the appraisal anyway. The Respondent had difficulty finding comparables for the subject property because he was unaware of any other school buildings that were recently sold, so he used sales with what he considered reasonable extractions. The Respondent provided his client with the names of qualified Certified General Appraisers in the event that the assignment required that kind of expertise. The Respondent states that he requested expense data, rental incomes, and repairs made to the subject property from his client and he was told that no information was available. The Respondent was provided information after the appraisal was completed, but it still would not have affected his market value. The Respondent's client told him that any space currently occupied was within his partnership and the income was not market value, so he should estimate the value fee simple and unencumbered. The Respondent states the city sales data which was part of his original appraisal was missing from the Complainant's copy of the appraisal report.

The Respondent states that he received a Fax from his client's business partner's Attorney, stating how the partnership division was going to take place and the partner questioned the Respondent's appraisal experience. The concerns about the Respondent's appraisal experience were brought up after the completion of the appraisal and he was not aware of the rules his client had to follow. The Respondent states that he thought the appraisal would only be for his client's private use and he did not know the appraisal would be used to divide the partnership. The respondent states if the situation had been disclosed to him prior to his accepting the assignment, he never would have agreed to perform the appraisal.

6. Pursuant to departmental practice, the subject appraisal and related documentation were assigned to, and submitted to a real estate appraisal expert/board advisor for review and analysis for compliance with USPAP, who concluded succinctly that:

a. Respondent violated the scope of appraisal practice in violation of sec. RL 81.04(3), Wis. Adm. Code, Licensed Appraiser. A Licensed Appraiser may conduct appraisals of complex 1-to-4 family residential property having a transaction value of not more than \$250,000; non-complex 1-to-4 family residential property having a transaction value of not more than one million dollars, and commercial real estate having a transaction value of not more than \$250,000; violated sec. 458.26(3)(b), Wis. Stats., engaged in unprofessional or unethical conduct . . . ; violated secs. 86.01(1)-(2), (6), Wis. Adm. Code, (1) . . . appraisal shall comply with the Standards of Practice established by ch. 458, Stats., and chs. RL 80 to 86 and the standards set forth in USPAP, (2) All appraisals shall conform to USPAP, and (6) . . . licensed appraisers shall not offer to perform, nor perform, services which he/she is not competent to perform through education or experience.

7. Accordingly, based upon the above and in settlement of this matter, Respondent Counsell hereby consents, accepts and agrees to successfully complete a minimum of seven (7) hours of education in the USPAP Standards course; be Reprimanded and pay a forfeiture of \$300.00. The ordered education will not be counted toward your required continuing education, and will have to be completed within six (6) months following the effective date of the Board Order. The \$300.00 forfeiture will have to be paid at the time of y our signing this stipulated agreement.

a. Following completion of the education, Respondent is to submit proof of satisfactory completion to the Department monitor, Ted Nehering, P.O. Box 8935, Madison, WI 53708-8935. If Respondent does not complete the ordered educational courses as agreed, or fails to get approval for extensions to complete the education, then he shall be considered in violation of the Board’s Order, and may be subjected to further discipline.

8. Respondent agrees that this Stipulation agreement may be incorporated into the Board’s Final Decision and Order adopting the Stipulation agreement.

9. Respondent further agrees that Complainant’s attorney Sanders, and the Board Advisor assigned to the case, may appear at any closed-deliberative meeting of the Board with respect to this Stipulation, but those appearances are limited solely to clarification, justification, and to statements in support of the Stipulation and for no other purpose.

Robert J. Counsell	October 20, 1999
Respondent	Date

Henry E. Sanders	October 27, 1999
Complainant’s Attorney	Date
Division of Enforcement	