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STATE OF WISCONSIN

BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

JAMES J MONETTE,

FINAL DECISION & ORDER

RESPONDENT

LS0108224APP

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

James J. Monette

7354 Timber Lake Trail, Apt. 309

Madison, WI 53719

Bureau of Business & 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-matters, make the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Board, 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 22nd day of August, 2001.

Paul Vozar

Real Estate Appraisers Board

STATE OF WISCONSIN

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

JAMES J. MONETTE,

STIPULATION

RESPONDENT

99 APP 028

Respondent James J. Monette (Monette), 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 Monette, 7354 Timber Lake Trail, Apt. 309, Madison, Wisconsin, is and was at all time material to the complaint, licensed as a licensed appraiser (#878-4), and had been so licensed under the provisions of ch. 458, Wis. Stats., since September 28, 1994.

2. This Stipulation shall be submitted to the Real Estate Appraisers Board (Board) for approval and disposition of the matters. 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 #99 APP 028.

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 these matters 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 anonymously, a copy of an appraisal performed by Respondent dated August 2, 1999, along with a review appraisal of the subject appraisal, and addendum.

5. The Review appraisal noted in pertinent part that:

a. Respondent's overall description of the subject property's neighborhood was not complete and accurate, that "the present land use is noted as being 80% single family and 20% vacant. The subject neighborhood is more realistically 20% single family and 80% vacant, with a few scattered commercial sites. It is also noted that land use change is unlikely. There is a fair amount of residential development in the area at the present time and land change should be noted as vacant and/or agricultural to residential."

b. Respondents' overall description of the site was not complete and accurate, that "comments made are very generic and brief for a property with 5 acres, wooded, well and septic, etc. Comments should address whether well and septic are typical for this market area. Significant site features if any should be noted (e.g. size, shape, topography, wooded, pond, etc.). It should be noted that the subject dwelling is set back quite a distance off the road."

c. Respondents' comparables used in his analysis were not truly comparable to the subject property, were not representative of the subject market, and were not the best ones available as of the effective date of the appraisal, i.e., "based on drive-by inspection and MLS data the sales used are not the best and are not truly comparable to the subject property. The subject is located in the town of Vernon and all the sales are located in the town and/or the city of Waukesha (not one sale in the town of Vernon used). The reviewer did a brief MLS search for recent sales in the town of Vernon ranging in price from \$175,000 to \$400,000 with a minimum of 3 acres and a maximum of 20 acres. This search revealed that there were 14 sales that met this criteria, several which appears to be relevant sales to the subject (Note: Assessment information was not available on these sales as of the review date - town of Vernon assessor is part-time and property information is only available upon a facsimile request). The town of Waukesha is considered to be a similar market area to that of town of Vernon but only secondary after it is found that there is no relevant/similar sales available in the town of Vernon. Based upon the information presented in the original report, the reviewer is unable to rely upon the content as being accurate for the subject and therefore sales were not gridded."

d. Specific data for Comparables:

The reviewer found that the some of the specific data recorded in the sales grid was grossly incorrect in all four comparable sales (per assessor records).

Some of the major items noted are as follows:

Sale #1: Noted 2.0 baths/Actual 2.5 full baths	Noted GLA 2,275 sq.ft./Actual GLA 2,882 sq.ft.
Sale #2: Noted 2.0 baths/Actual 2.5 full baths	Noted GLA 1,998 sq.ft./Actual GLA 2,894 sq.ft.
Sale #3: Noted 2.0 baths/Actual 2.5 full baths	Noted GLA 1,891 sq.ft./Actual GLA 2,566 sq.ft.
Sale #4: Noted 2.0 baths/Actual 2.5 full baths	Noted GLA 2,155 sq.ft./Actual GLA 3,292 sq.ft.

(These items have significant impact on the final estimate of value)

Sale #1: Noted 12 years old/Actual 5 years old

Sale #2: Noted 11 years old/MLS 11 years old/Actual Assessor 34 years old

The missing .5 bath from all the sales should have been reported in the above grade room count but was instead included in the rooms below grade portion of the grid. Why?

All of the comparable sales have additional features which are also not noted e.g. central vacuum, whirlpool tubs, etc. Some of the data in the porch, patio, deck, etc. portion of the grid is incorrectly noted.

(The reviewer attached MLS and property data on the four original sales verifying the accuracy of the above data)

e. Respondent's estimate of market value for the subject was not reasonable as of the effective date of the appraisal, "that after reviewing the original appraisal report, the reviewer has found that there is so much misleading and inaccurate information contained in the report that it is impossible to determine if the final estimate of value is remotely correct. It is apparent that the original appraiser is either grossly under qualified for this assignment or the appraiser altered the specific property information in order to mislead and support a specific value. Due to the amount of incorrect information in the original report, it is assumed that the appraiser knowingly altered the specific sales information in order to obtain a higher or predetermined final estimate of value ... It is the reviewer's opinion that the original report is inaccurate and the final estimate of value unreliable ..."

6. Respondent responded to the subject complaint and responded that:

"Response to Review:

The "review appraiser (RA)" had several items marked on the appraisal as questionable. I'll respond to them in order.

First Page of URAR:

The (RA) believes Town of Vernon should be placed in the box marked city. I believe the actual property address should be placed in this box coinciding with the property street address in the previous box. The present land use should have been lowered to 75% in order to match the suburban 25-75% built up. However I would not be inclined to lower the present land use percent much more than that. The land use change in my opinion is still not likely. The subject actual age is 13 years. The (RA) stated 1986. The form asks for the age not the year built therefore 13 is correct, 1986 is incorrect. On the appraisal the basement area square feet is stated as 1708 with 90% finished. In the improvements grid 1537 is stated, exactly 90% of 1708, which represents the finished portion of the total basement square feet. The subject property has a 2 stall detached garage and a 4 stall detached garage.

Second Page of URAR:

The (RA) wants \$155 in the box for price/gross living area. My appraisal software will not put a number in that box if there is no sales price in the sales price box under subject info. The software divides sales price by GLA to get price/gross living area. If one of those two boxes does not have a number it will not compute. The age for sale #2 was stated as 11. The MLS sheet states it was built in 1988 making it 11 years old. The age for sale #3 was stated as 2. The MLS sheet states it was built in 197 making it 2 years old. Since the appraisal was done in 1999 these ages are correct. I do not know where this review appraiser got his/her information but according to the realtor MLS sheets the original appraisal is correct. The age for sale #1 was stated as 12. The MLS sheet states it was built in 1997 making it 2 years old. I incorrectly stated the age for sale #1. The (RA) incorrectly stated it as being 5 years old. In trying to determine the location of the baths I ended up calling the real estate office that listed the property or the realtor that sold the property. I came to the conclusion that all the properties had some type of bathroom facility in the lower level. The (RA) stated that all of the properties had no bathroom in the lower level. I now know that sale #2 does in fact have a full bath in the lower level. I did make

adjustments for the baths in the lower level just like I would have if they had been located in the upper level portion of the adjustment grid. Since 3 of 4 MLS sheets were without estimated sq.ft. and I was unable to access any intax information the sq.ft. was computed as follows: Sale #1 I added up all the room dimensions for all rooms above grade which came to 1779. Then I took 3058 (the sq.ft. on the MLS sheet) and subtracted 425 the sq.ft. for the family room in the lower level which came to 2633. Half way between 2633 and 1779 is 2206 sq.ft. Then I rounded up to 2275. Sale #2 was computed in a similar fashion. All the above grade room dimensions were computed and added up to get 1718. Then I added 280 sq.ft. for the above grade bathrooms giving a total of 1998 sq.ft. With sale #3 I added up all the above grade room dimensions which totaled 1596 sq.ft. Then I added 295 sq.ft. for the above grade bathrooms which came to 1891 sq. ft. for sale #3. When it comes to estimating sq.ft. this technique would not be my first choice but after exhausting all my other options I felt I had no choice but to compute it this way. The other two items marked at the bottom of the second page of the URAR are unclear to me why they were circled and marked by the (RA).

Third Page of URAR:

The (RA) appraiser marked city by the address of sale #4. I realize this property was located in the City of Waukesha and the subject property was not, however I wanted to show any contrasting differences of value between the location of these two properties. The (RA) circled site size for sale #4 and stated that it should be .52 acres instead of .62 acres as I stated on the original appraisal. After reviewing the MLS sheets the original appraisal with .62 acres is correct and the (RA) is incorrect. The bathroom location for sale #4 was determined by calling realtors who inspected the property. Adjustments were made for the bathrooms below grade the same as if they were above grade. The sq.ft. for sale #4 was computed by adding up all the room dimensions on the MLS sheet since no actual totals were available. The total was 2030 plus 125 added for the above grade bathrooms totalling 2155.

Comments:

Eventhough this was a difficult appraisal to complete I believe the end value is justified. I did make some mistakes on this appraisal but am taking steps to make sure they don't happen again in the future. The reviewer also made some mistakes regarding lot size, age, and bathroom location. I was never contacted by anyone to clarify any of the points in the complaint and believe if I had this could have been avoided. Since 01/01/2000 I started my own appraisal company and avoid doing appraisals in the Milwaukee area because of the distance and the difficulty in obtaining information."

7. Accordingly, Respondent is deemed to have violated sec. 458.26(3)(c), Wis. Stats., engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles or skills; violated secs. RL 86.01(1)-(2), (5)-(6), Wis. Adm. Code, (1). .. Appraisers shall comply with the Standards of Practice established by Ch. 458, Stats., and Chs. RL 80-86, and the Standards established by USPAP; (2). All appraisals performed shall comply with USPAP; (5). ... Appraisers shall not knowingly omit, understate, misrepresent or conceal material facts in their appraisals, and (6). ... Appraisers shall not offer to perform, nor perform services which he/she is not competent to perform through education or experience; and violated USPAP's Standards Rules 1-4, and 2-2, not inclusive.

8. Based upon the above and in settlement of these matters, Respondent Monette hereby consents, accepts and agrees to take 15 hours of USPAP education, to be taken and successfully completed within six (6) months of the effective date of the Board's Order adopting the Stipulation Agreement; and to pay the amount of \$500.00 partial assessment of costs, to be paid at the time of execution of the Stipulation.

a. The effective date of the Board's Order is the date of execution by the Board's Chairperson or his designee.

9. The ordered education shall not count or be credited towards Respondent's required continuing education, and if he shall fail to take and complete the ordered education within the specified time, and or fail to get written permission from the board to complete same, then he shall be deemed to be in violation of the Board's Order and may be subjected to further discipline.

10. Proof of successful completion of the ordered education shall be submitted to the Department's Monitor, hereinafter; and the \$500.00 partial assessment of costs shall be payable by cashier's check or money order made payable to the Department of Regulation and Licensing, and submitted to Departmental Monitor:

Marlene Meyer

Monitor

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

11. Respondent agrees that this Stipulation Agreement may be incorporated into the Board's Final Decision and Order adopting the Stipulation Agreement.

12. Respondent further agrees that Complainant's Attorney Sanders and the case advisor assigned to the complaint, may appear at any closed deliberative meeting of the Board with respect to the Stipulation, but those appearances will be limited solely to clarification, justification, and to statements in support of the Stipulation and for no other purpose.

James J. Monette	8-19-01
Respondent	Date
Henry E. Sanders	8-20-01
Complainant's Attorney	Date