

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
JAMES L. SCHULTHEIS : LS0310151APP
RESPONDENT. :

Division of Enforcement Case No. 09 APP 026

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

James L. Schultheis
100 W A Street
Iron Mountain, MI 59801

Division of Professional Credential Processing
Real Estate Appraisers Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO 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 Real Estate Appraisers Board (Board). The Board has reviewed the Stipulation Agreement annexed to this Final Decision and Order and considers it acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. James L. Schultheis (Date of Birth: November 18, 1941) possesses a certificate of licensure and a certificate of certification to practice as a Certified General Appraiser in the state of Wisconsin and a certificate of licensure to practice as a Licensed Appraiser in the state of Wisconsin (both using certificate #10-882). These certificates were first granted on August 18, 1997.

2. Mr. Schultheis's most recent address of record with the Department of Regulation and Licensing is 100 W A Street, Iron Mountain, MI 49801.

3. In September 1999, the Department received a complaint against Mr. Schultheis by an employee of the Wisconsin Department of Transportation. In 1999, Mr. Schulthies had prepared three review appraisal reports of three small parcels (identified as Parcels Numbers 12, 32 and 68) of rural land in Florence County, Wisconsin, which the Wisconsin Department of Transportation was in the process of taking by Eminent Domain action.

4. The complaint alleged that the three review appraisal reports contained factual errors and did not have signed Certification. The complaint also alleged that the assumptions and limiting conditions gave the impression that more than one person may have worked on the documents. The complaint also gave an opinion that the reports did not meet the standards for either an appraisal review or a appraisal report. The complaint indicated individual problems on each of the individual reports for the three parcels of land:

"Parcel 68 – The value concluded is selected from too broad of a range of value (in the area of \$5,000-\$18,700 an acre) without adjustments or an adequate explanation. There is a conflict between the value of the property as vacant commercial and the contributory value of landscaping related to residential use."

"Parcel 32 – The analysis for the vacent land is totally irrelevant. The appraiser based his opinion on what the state paid for adjacent improved property. The state transaction was not an arm's length sale because of the threat of eminent domain. The appraiser did not have the correct facts as reported and made incorrect assumptions."

"Parcel 12 – The review contains an opinion of value that does not have adequate support."

5. A Case Advisor, a member of the Real Estate Appraisers Board and a Certified General Appraiser, was assigned to the complaint and reviewed and analyzed the three review appraisal reports. The case advisor concluded that three review appraisal reports were below Uniform Standards of Professional Appraiser Practice (hereinafter USPAP) standards. All three review appraisal reports in question violated USPAP, specifically Standard Rull 3-1(c)(d) and (g)(1) and Standard Rule 3-2(c) and (f).

The Case Advisor concluded that the appraisal report for Parcel #12 violated USPAP Standards Rule 1, 1-1(a), and (c), Standards Rule 1-2(c)(e)(ii) and (f), Standards Rule 2-1(a)(b) and Standards Rule 2-2.

The Case Advisor concluded that the appraisal report for Parcel #32 violated USPAP Standards Rule 1-1(a), Standards Rule 1-1(c) and Standards Rule 1-2(c)(e)(ii) and (f).

The Case Advisor concluded that the appraisal report for Parcel #68 violated USPAP Standards Rule 1, Standards Rule 1-1(b)(c), Standards Rule 2, Standards Rule 2-1(a)(b), Standards 2-2, Standards Rule 2-3; and Standard Rule 3-2, all not inclusive.

6. Mr. Schultheis was informed of the results of the Case Advisors review and conclusions and requested that the Case Advisor conduct a review of appraisals that he performed on other commercial and Eminent Domain properties. The Case Advisor reviewed appraisals done in 2000 and identified similar violations of USPAP.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction over this matter pursuant to Sec. 458.26, Stats.
2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached stipulation, pursuant to Sec. 227.44(5), Stats.
3. By the conduct described above James L. Schultheis has violated:
 - a. Sec. 458.26(3)(b), Stats. Engaged in unprofessional conduct in violation of rules promulgated under Sec. 458.24, Stats.
 - b. Sec. 458.26(3)(c), Stats. Engaged in conduct while practicing as an appraiser which evidences a lack of knowledge to apply professional principles or skills.
 - c. Sec. 458.26(3)(i), Stats. Violated this chapter or any rule promulgated under this chapter.
 - d. Wis. Admin. Code Sec. RL 86.01(1)(2). All appraisals performed in conjunction with Federally related transactions and non-federally related transactions shall confirm to the uniform standards of professional appraisal practice set forth in Appendix I.

ORDER

Respondent Schultheis neither admits nor denies the allegations, but to resolve the captioned matter, hereby agrees and consents to the following limitations:

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. That Respondent Schultheis' Certificates of Licensure and Certificate of Certification to practice as a Certified General Appraiser in the state of Wisconsin and Certificate of Licensure to practice as a Licensed Appraiser in the state of Wisconsin (both using certificate #10-882) are hereby **LIMITED** from performing Eminent Domain/Condemnation and/or commercial appraisals unless the appraisals are performed under the supervision of another Certified General Appraiser for a minimum of **one (1) year** from the effective date of this Order. The other Certified General Appraiser must sign any appraisal report Certification done in conjunction with Mr. Schultheis.
2. The name of the supervising Certified General Appraiser that Mr. Schultheis chooses, shall be presented to the Board or its designee, prior to the commencement of supervision of Mr. Schultheis' commercial appraising.
3. Before Mr. Schultheis may independently commence doing Eminent Domain/Condemnation and/or commercial appraisals, a knowledgeable Certified General Appraiser must submit a letter to the Board, or its designee, attesting that Mr. Schultheis, in his/her professional opinion is competent to independently perform Eminent

Domain/Condemnation and/or commercial appraisals. If Mr. Schultheis commences doing the subject appraisals independently, he shall submit the first four (4) appraisal products to the Board at the time of completing the appraisal product for USPAP compliance review.

4. If, after Mr. Schultheis commences performing the subject appraisals independently, the Board determines that the four (4) appraisal products are not per USPAP standards, then the Board in its discretion, order other appropriate limitations and/or discipline.

IT IS FURTHER ORDERED that:

5. Within **(six) 6 months** of the effective date of this Order, Mr. Schultheis must provide proof sufficient to the Real Estate Appraisers Board that he has successfully completed USPAP courses A and B offered by the Appraisal Institute, or an equivalent course, and offer proof sufficient to the Board that he has achieved a passing score on the examination administered at the end of any course. This education shall not be credited towards Mr. Schultheis' continuing education requirements.

6. Within **six (6) months** of the effective date of this Order, Mr. Schultheis shall also undertake Department approved Eminent Domain appraisal training. This education shall not be credited towards Mr. Schultheis' continuing education requirements.

7. Within ninety (90) days of the effective date of this Order, Mr. Schultheis shall pay the **amount of five hundred dollars (\$500.00) partial assessment of costs.**

8. Any documentation or payments that need to be submitted under this Order shall be directed to:

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, WI 53708-8935

The 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 the Department Monitor (Place case number on the check or money order and the word "Costs").

9. If Mr. Schultheis shall fail to pay the forfeiture, partial assessment of costs or to complete the education as ordered, or fails to obtain a written extension from the Board to complete same, then he shall be considered to be in violation of the Board's Order and may be subjected to further discipline.

a. The Department of Regulation and Licensing, pursuant to Sec. 458.26(5), Stats., reserves the right to appeal the Board's Final Decision and Order.

10. The effective date of the Board's Order is the date of the signing by the Board's chair or his designee.

REAL ESTATE APPRAISERS BOARD

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|------------------------|----------|
| By: La Marr Franklin | 10-15-03 |
| On Behalf of the Board | Date |