

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/wscqa>.
- 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 :
 : FINAL DECISION AND ORDER
JOHN DALBY and JAMES G. BUCHTA, : LS0404291APP
RESPONDENTS. :

Division of Enforcement Case No. 00 APP 007

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

John Dalby
1112 Harriette Street
Fort Atkinson, WI 53538

James G. Buchta
1219 Sherman Avenue West
Fort Atkinson, WI 53538

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Real Estate Appraisers Board
Department of Regulation & Licensing
1400 East Washington Avenue
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 this matter, subject to the approval of the Real Estate Appraisers Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. John Dalby (“Dalby”), (DOB 09/30/1944) is duly licensed as Certified General Appraiser and Licensed Appraiser in the state of Wisconsin (10-157). This license was first granted on 01/09/1992.
2. Dalby's most recent address on file with the Wisconsin Real Estate Appraisers Board is 1112 Harriette Street, Fort Atkinson, WI 53538.
3. At all times relevant to this action, Dalby was working as a Real Estate Appraiser in Wisconsin.

4. James G. Buchta (“Buchta”), (DOB 06/21/1950) is duly licensed as Certified General Appraiser and Licensed Appraiser in the state of Wisconsin (10-97). This license was first granted on 11/22/1991.

5. Buchta's most recent address on file with the Wisconsin Real Estate Appraisers Board is 1215 Sherman Avenue, Fort Atkinson, WI 53538.

6. At all times relevant to this action, Buchta was working as a Real Estate Appraiser in Wisconsin.

7. On or about January 20, 1999, Dalby conducted an appraisal of real estate located at 5016 Paulson Road, McFarland, Wisconsin (“subject property”). The appraisal by Mr. Dalby included, among other things, that the subject property was a suburban ranch style home. The age of the property was twenty-two (22) years, and Mr. Dalby rated the subject property as having an effective age of fifteen (15) years. The subject property also had 1.75 bathrooms and a partially finished basement.

8. Mr. Dalby concluded that the property was worth \$155,000 on the date of the appraisal; his opinion of value primarily rested upon the sales comparison approach to valuation. The total and net adjustments made by Mr. Dalby, in and of themselves, would not merit disciplinary action.

9. Mr. Dalby’s goal in using the comparison approach to valuation was to find properties that were most similar to the subject property.

10. Mr. Dalby selected as comparables: (a) one property with an age and effective age of two years or less; and (b) one property that was a two-story style home with 2.5 bathrooms; (c) one property that was a two-story style home that had 1/3 more finished above-ground square feet of space.

11. In selecting the comparables noted in paragraph ten (10), above, Mr. Dalby rejected several properties that were more similar to the subject property in terms of age, style, square feet of above-ground finished space, and number of bathrooms. Mr. Dalby rejected many of these on the grounds that the MLS listing did not include all information that was needed to produce a credible appraisal.

12. A review appraisal conducted by another licensed appraiser, as well as a licensed appraiser hired by the Department of Regulation and Licensing as an expert witness, concluded that the value of the subject property was approximately fifteen-thousand dollars (\$15,000) to twenty-thousand dollars (\$20,000) less than Mr. Dalby’s opinion of value. (The Department of Regulation and Licensing’s expert witness and Mr. Dalby both agreed that the lot was worth \$40,000, even though their opinions of value regarding the subject property varied by approximately \$20,000.)

13. Mr. Buchta signed the appraisal completed by Mr. Dalby as a co-signing and supervising appraiser. Mr. Buchta did not personally review comparables rejected by Mr. Dalby.

14. It is a violation of USPAP Standards Rule 1-1(c) to “render appraisal services in a careless or negligent manner, such as by making series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.”

15. Per USPAP Standards Rule 2-5 an appraiser “who signs a real property appraisal report prepared by another in any capacity accepts full responsibility for the appraisal and the contents of the appraisal report.”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 458.26, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct of Mr. Dalby as described in paragraphs ten (10) to twelve (12), above, constitutes a violation of USPAP Standards Rule 1-1(c), and thereby, constitutes a violation of Wis. Stat. § 458.26(3)(b) and Wis. Admin. Code § RL 86.01(1).

3. By signing the appraisal report of Mr. Dalby, as described in paragraph thirteen (13), above, Mr. Buchta became liable for its contents, per USPAP Standards Rule 2-5, and, therefore, committed a derivative violation of USPAP Standards Rule 1-1(c), which, thereby, constitutes a violation of Wis. Stat. § 458.26(3)(b) and Wis. Admin. Code § RL 86.01(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The licenses and certifications of JOHN DALBY and JAMES G. BUCHTA, to practice as Real Estate Appraisers in the State of Wisconsin are hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Respondents Dalby and Buchta shall separately, within (60) days from the date of this Order, pay partial costs of this proceeding in the amount of one thousand (\$1,000) dollars each. Payments shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed 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

3. Respondent Dalby shall attend and successfully complete a fifteen-hour course entitled, The Residential Sales Comparison Approach, which shall be fifteen hours in length, within six (6) months of the date of this Order, with proof of successful completion of the course to be submitted to the Department Monitor at the address indicated above.

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The 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 a Respondent fails to timely submit any payment of the forfeiture as set forth above, or fails to comply with the ordered continuing education the Respondent's license (10-97 or 10-157) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

La Marr Franklin
A Member of the Board

11-10-04
Date