

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
PHIL W. VAN VONDEREN, :
RESPONDENT. : LS06030113APP

Division of Enforcement Case No. 05 APP 019

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

Phil W. Van Vonderen
1042 Countryside Dr.
De Pere, WI 54115

Wisconsin Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708

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 disposition of this subject to the approval of the Real Estate Appraisers Board (Board). The Board has reviewed this Stipulation and cons acceptable.

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

FINDINGS OF FACT

1. **Phil W. Van Vonderen**, (DOB 12/29/68), is a duly licensed appraiser in the state of Wisconsin having license 1510, which was first granted on 01/22/03.

2. Mr. Van Vonderen's most recent address on file with the Wisconsin Department of Regulation and Licensing is 1042 Countryside Dr., De Pere, WI 54115.

3. On or about November 16, 2004, Larry Van Vonderen filed an application with the Wisconsin Department of Regulation and Licensing for an Appraiser's license. Larry Van Vonderen is Phil Van Vonderen's brother.

4. As part of the application process, appraisals received from Larry Van Vonderen were reviewed by the Real Estate Appraisers Board. The appraisals that Larry Van Vonderen submitted with his application were signed by Phil Van Vonderen as his supervisor.

5. It was determined that the appraisals did not meet the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

Appraisal #1. Property Appraised: 515 N. 15th Street, Algoma, WI 54201

USPAP, Standards Rule 1-1 (b)(c)

“not commit a substantial error of omission or commission”

“not render appraisal services in a careless or negligent manner”

- the address is incorrect (should be 515 Fifth)
- the computer/parcel # is incorrect
- land use for the subject neighborhood is inaccurate
- lot dimensions are incorrect
- site area is incorrect
- zoning is incorrect
- age – assessor records indicate year built as 1915
- full basement 512 SF, first floor 851 SF
- no adjustment made for differences between the subject and comparable lot size
- Comp. #1 & Comp. #4 have the same address/town but describe two different properties
- Comp #1(and Comp #4?) sale data differs from public record data (2/28/00 for \$84,900)
- Comp. #2 has a 5 acre site not a 108 x 201 site

Standards Rule 1-2 (a) (b) (e)

“identify the client and other intended user:”

“identify the intended use”

“identify the characteristics of the property”

Standards Rule 1-3 (b)

“develop an opinion of the highest and best use

- subject located on a small lot across the street from a grocery store (could the highest & best use be commercial development?)

Standard Rule 2-2 (b) (vii)

“describe sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop...”

Comment: When any portion of the work involves appraisal assistance, the appraiser must summarize the extent of that assistance....and state the name(s) of those providing...in accordance with SR 2-3.

- appraiser does not address or identify Larry Van Vonderen’s significant (10 hrs) contribution in the report or in an addendum.

Appraisal # 2. Property Appraised: 4433 State Highway 47, Two Rivers, WI 54241

USPAP, Standards Rule 1-1 (b)(c)

“not commit a substantial error of omission or commission”

“not render appraisal services in a careless or negligent manner”

property location is not adequately identified, subject is in the Town of Gibson not Two Rivers
lender/client is not identified

- land use for the subject neighborhood is inaccurate
- lot dimensions are incorrect
- site area is incorrect
- age – assessor records indicate year built as 1950
- Cost Approach is not properly developed
- location of comparable sales on the grid are not complete

- location defined on the grid conflicts with neighborhood description on page one
- comparable sale adjustment for lot size is inflated (subject has the same size lot as comps)
- appraisal indicates that the subject is well maintained but does not address the grid adjustment for a furnace (does subject have a furnace? is it functional?)
- grid adjustments for bathrooms, garage stalls, front stoops are not supported
- assessment records describe the pole building as a very old shed with “not much value, maybe \$500”.

Standards Rule 1-2 (a) (b) (e)

“identify the client and other intended user:”

“identify the intended use”

“identify the characteristics of the property”

Standards Rule 1-3 (b)

“develop an opinion of the highest and best use

-subject is located in a rural area (per grid description); could highest & best use be agricultural? commercial?

Standard Rule 2-2 (b) (vii)

“describe sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop...”

Comment: When any portion of the work involves appraisal assistance, the appraiser must summarize the extent of that assistance....and state the name(s) of those providing...in accordance with SR 2-3.

- appraiser does not address or identify Larry Van Vonderen’s significant (10 hrs) contribution in the report or in an addendum.

Appraisal # 3. Property Appraised: 5707 County Rd. E, Casco, WI 54205

USPAP, Standards Rule 1-1 (b)(c)

“not commit a substantial error of omission or commission”

“not render appraisal services in a careless or negligent manner”

legal description is not included in appraisal

- land use for the subject neighborhood is inaccurate
- lot dimensions not included in appraisal
- site area is incorrect
- zoning is incorrect
- age – assessor records
- Cost Approach is not properly developed
- location defined on the grid conflicts with neighborhood description on page one
- comparable sale adjustment on the grid for lot size appears to be inflated
- appraisal indicates that the subject is in good condition and well maintained but does not address the grid adjustment for a furnace (does subject have a furnace? is it functional?) however, the appraiser does make a modest adjustment for cost to cure deferred maintenance described on page (2) two. Exterior photos exhibit the need for considerable site clean up, was the interior in similar condition?
- grid adjustments for lot size are not supported or explained
- cost approach and photo identify an additional building on the site however no explanation is made as to the purpose, condition or function of this structure
- appraisal grid indicates no (none) extra buildings however, an adjustment is made for two comparable sales without an extra building

Standards Rule 1-3 (b)

“develop an opinion of the highest and best use

-subject is located in a rural area (per grid description) with A2 agricultural/rural residential zoning, could highest & best use be agricultural? commercial?

Standard Rule 2-2 (b) (vii)

“describe sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal”

Comment: When any portion of the work involves appraisal assistance, the appraiser must summarize the extent of that assistance....and state the name(s) of those providing ...in accordance with SR 2-3.

- appraiser does not address or identify Larry Van Vonderen’s significant (12 hrs) contribution in the report or in an addendum.

Based on the numerous errors, omissions, and incorrectly applied approaches to value cited above in the three appraisal reviewed, violations of the Competency Rule also apply.

6. Because the appraisals failed to meet the USPAP, the Department of Regulation and Licensing denied Larry Van Vonderen’s application on March 1, 2005.

7. Under USPAP Standards Rule 2-3, when a signing appraiser has relied on work done by others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. sec. 44 and is authorized to enter in the attached Stipulation pursuant to Wis. Stat. sec. 227.44 (5).

2. The conduct described above in paragraph 5 constitutes a violation of:

a. USPAP Standards Rule 1-1(b)(c);
not commit a substantial error of omission or commission,
not render appraisal services in a careless or negligent manner.

b. USPAP Standards Rule 1-2 (a) (b) (e);
identify the client and other intended user,
identify the intended use,
identify the characteristics of the property.

c. USPAP, Standards Rule 1-3 (b); develop an opinion of the highest and best use.

d. USPAP, Standard Rule 2-2 (b) (vii); describe sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal.

3. As the supervisor of Larry Van Vonderen’s preparation of the above appraisal reports, Phil Van Vonderen is responsible for their content.

4. As a result of the above violations, respondent is deemed to have also violated Wis. Stat. § 458.26(3)(c), or Adm. Code § RL 86.01 (2), by engaging in conduct while practicing as an appraiser which evidences a lack of knowledge or to apply professional principles or skills.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of **Phil W. Van Vonderen**, license #4-1510 is hereby, **REPRIMANDED**.
2. **Phil W. Van Vonderen**, within 120 days of the date of this Order, successfully **complete Department approved education regarding the cost approach and the sales comparison approach** and submit proof of the same in the form of verification from the institution providing the education to the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board of Regulation and Licensing. Respondent shall submit proof of the same to the Department's Monitor in the form of verification from the institution providing the education.
3. **Phil W. Van Vonderen**, license #4-1510 is hereby, **limited** commencing ten (10) days from the date of this Order as follows:
 - a. Respondent shall cease any and all supervisory responsibilities to any and all other appraisers for a period of two (2) years after the completion of course work listed above;
 - b. Respondent shall not rely on any trainee, clerical staff and/or office assistant to provide research assistance to adequately document the historic details and accurately describe the characteristics of the subject property and any comparable sale used in an appraisal for a period of at least two years after successful completion of course work;
 - c. Respondent shall be limited to the completion of no more than ten (10) appraisals per week;
 - d. Respondent shall be limited to providing appraisal services within Brown County only;
 - e. Respondent shall provide proof to the Department that he is abiding by said limitations by having a licensed real estate or accounting professional submit a notarized statement to the Department Monitor on a monthly basis stating the number of appraisals completed by Respondent during the preceding month and providing the street addresses of the subject properties appraised during the preceding month. Said notarized statement shall be submitted to the Department Monitor no later than the 20th day of each month following the first full month after the issuance of this Order. Respondent shall pay any and all expenses or costs associated with submitting the notarized statements to the Department.
4. No less than one-year following the successful completion of course work, the Respondent may petition the Board to remove any or all of the limitations. In addition to the petition, respondent shall provide three appraisal reports (with properly documented work files), completed after the successful completion of course work, selected at random by the Department from a list provided by the monitoring/accounting firm. The Board may grant or deny the petition.
5. Respondent **Phil W. Van Vonderen** shall, within 60 days of the date of this Order, pay **COSTS** of this proceeding in the amount of \$900.00.
6. Proof of successful class completion, payment of costs (made payable to the Wisconsin Department of Regulation and Licensing), and notarized statements required by this Order, and any request for removal of the limitations, shall be mailed, faxed or delivered to the Department Monitor at this address:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

7. 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 and certification. In its discretion the Board 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 Respondent fails to timely submit payment of the costs, proof of completion of course work, proof of compliance with the license limitations, or in the event Respondent violates the license limitations, as set forth above, Respondent's license and certification SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:	Mark P. Kowbel	3/1/06
	A Member of the Board	Date