

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
RALPH BAUCH,	:	LS0811196APP
RESPONDENT.	:	

Division of Enforcement case file 07 APP 150

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

Ralph Bauch
W10596 Rowley Rd.
Portage, WI 53901

Wisconsin 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

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Real Estate Appraisers Board (“Board”). The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Ralph Bauch is licensed in the State of Wisconsin as a Real Estate Appraiser, having license #9-113, first issued on October 14, 1991.
2. Mr. Bauch’s most recent address on file with the Department of Regulation and Licensing (“Department”) is W10596 Rowley Rd., Portage, WI 53901.
3. On July 26, 2005, Mr. Bauch performed an appraisal on property at W6465 Patchin Road in Pardeeville, Wisconsin, for the Smiley Law Office as part of an evaluation of an estate.
4. In the appraisal and appraisal report for W6465 Patchin Road in Pardeeville, Wisconsin, Mr. Bauch failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:
 - a. The report does not identify the intended user(s). It is not acceptable to require the reader to infer that the intended user is the lender/client. This is a violation of S.R. 1-2a and S.R. 2-2b(i).
 - b. The report does not identify the intended use of the appraisal work. This is a violation of S.R. 1-2b and S.R. 2-2b(ii).

- c. The report does not provide an opinion of reasonable exposure time linked to the value opinion (see the comment below S.R. 1-2(c)(iv)). This is a violation of S.R. 1-2c and S.R. 2-2b(v).
- d. The report indicates in the neighborhood section that the neighborhood is under 25% built-up and that land use is 80% single family. This information is contradictory and a violation of S.R. 1-2e and S.R. 2-2b(iii).
- e. The report contains no scope of work statement. This is a violation of S.R. 1-2f and S.R. 2-2b(vii).
- f. The report states that the zoning is residential and that the site conforms to zoning. The letter from Columbia County Zoning contained in the documents provided to the department clearly shows that zoning is agricultural and that the subject is a legal non-conforming use. This is a violation of S.R. 1-3a and S.R. 2-2b(iii) and possibly the USPAP Competency Rule.
- g. The appraisal gives the FEMA flood date as 9-15-1985, but the correct date is 9-15-1983.
- h. The report provides no Highest and Best Use analysis. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. This is a violation of S.R. 1-3b and S. R. 2-2b(ix).
- i. The report does not identify the reporting option used. This is a violation of S.R. 2-2.
- j. The report contains numerous errors and inconsistent values in the sales comparison approach:
 - (i) The report mis-states (or rounds inconsistently) the site sizes: actual site sizes are 1.41 acres (Sale 1), .71 acres (Sale 2) and 2.47 acres (Sale 3), per the MLS; Mr. Bauch uses 1, 1 and 2.5 acres, respectively.
 - (ii) Sale 1 is reported on the MLS to be 1,638 sq. ft.; Mr. Bauch uses 1,400 sq. ft. (iii) Mr. Bauch indicates that Sale 1 has 50% basement finish; no basement finish is shown on the MLS sheet, other than a .5 bath.
 - (iv) The MLS sheet shows that Sale 1 has hot water heat and a window/wall a/c unit; Mr. Bauch says it has forced air heat and central air.
 - (v) The MLS sheet shows that Sale 1 has a 3-season porch and patio; Mr. Bauch uses covered porch and no patio.
 - (vi) The MLS sheet shows numerous updates (roof, boiler, water heater, flooring) for Sale 1 that are not referenced in the report.
 - (vii) The MLS sheet for Sale 2 indicates that it is a tri-level; Mr. Bauch indicates that it is a ranch.
 - (viii) The MLS sheet for Sale 2 shows 405 sq. ft. basement finish vs. 1,984 sq. ft. above grade with a full basement, equivalent to 20% basement finish; Mr. Bauch uses 50% basement finish.
 - (ix) Sale 2 is adjacent to land owned by a conservation club; this would typically be considered a value-adding feature, which is not addressed in the report.
 - (x) The report contains the wrong year of sale for Sale 2; it should be 10-31-02.
 - (xi) Sale 2 has a basement garage which is typically valued less than an attached garage, yet Mr. Bauch does not address this in the report.
 - (xii) The report contains an incorrect date of 3-30-06 for a 3-30-05 sale of Sale 2.
 - (xiii) Sale 3's MLS sheet shows \$5,400 in seller points/concessions which are not addressed in the report (the report says "none known").
 - (xiv) The MLS sheet for Sale 3 has 252 sq. ft. of basement finish vs. 1,600 sq. ft. up and a full basement, which would be a 16% finished basement; Mr. Bauch says it is 25% finished.
 - (xv) The MLS sheet for Sale 3 has an exposed, walk-out basement; this is a value adding feature not addressed in the report.

These are violations of S.R. 1-4a and S.R. 2-2b(viii).

- k. The report contains errors and inconsistent values in the cost approach:
 - i. The report provides no support for the concluded land value. This makes the report a restricted report.
 - ii. The report states on page 1 that no depreciation, other than physical, is appropriate, yet it applies a functional deduction on page 2. Mr. Bauch describes a functional deduction of \$26,700 based on

“condition”, but condition issues are physical depreciation, not functional. The cost approach uses \$28,229 in the condition section, and the market approach uses \$20,000 in the condition section. If there is functional depreciation, consistent adjustments should be made in all applicable valuation approaches. If the \$20,000 condition adjustment is intended to address the items which are not completed, it is inconsistent with the functional deduction in the cost approach attributed to these items.

These are violations of S.R. 1-4b and S.R. 2-2b(viii).

l. The report excludes the income approach to value, but “insufficient market data” is not a valid reason to exclude this approach to value. More appropriate reasons might be that zoning prohibits rental, similar homes are purchased for owner occupancy (not investment), etc. This is a violation of S.R. 1-4c. and S.R. 2-2b(viii)

m. The numerous errors, including typographical errors, undermine the credibility of the report. This is a violation of S.R. 1-1, S.R. 2-1 and S.R. 2-2 b.

5. On April 11, 2006, Mr. Bauch’s appraisal report was sent to the Community Bank of Portage as a recertification of value. The Recertification of Value sheet lists the date of the former report in one place as 7-26-05 and in another as 7-26-06. The recertification form does not comply with USPAP (see Advisory Opinion 3). Mr. Bauch stated that although the recertification form contained his signature, it was prepared without his knowledge. This was either an inappropriate action (updating the value for a different client without complying with USPAP reporting requirements; see the Advisory Opinion referenced) or a failure to control one’s signature (see the comment below the definition of “signature”).

6. Mr. Bauch has not been previously disciplined by the Board but on March 1, 2006, Mr. Bauch was ordered to complete the Appraisal Institute class in Effective Appraisal Writing in lieu of discipline in case 05 APP 075, in which the findings of fact included

- violating SR 1-2 (a) by failing to identify the intended user in the report;
- violating SR 1-2 (f) by failing to identify a scope of work statement in the report;
- violating SR 1-4 (a) by failing to explain the lack of adjustments for differences between the subject property (1 acre) and two of the comparable sales selected (3 and 5 acres);
- violating SR 1-5 by not indicating whether the subject was listed for sale, providing a list price, and failing to provide a rationale for why the opinion of value was significantly higher than the sales price;
- violating SR 2-2 by failing to identify the reporting option used; and
- violating SR 2-3 by failing to include a certification statement with the report, and failing to reflect in the certification statement that he relied upon the work of others who did not sign the report.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

2. By failing to comply with USPAP in the appraisal and the appraisal report for property at W6465 Patchin Road in Pardeeville, Wisconsin, Respondent Ralph Bauch violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that the Real Estate Appraisers license issued to Ralph Bauch shall be SUSPENDED for a period of 21 calendar days, starting on the 10th business day after the date of this order.

IT IS FURTHER ORDERED that within six months of the date of this Order, Ralph Bauch must successfully complete a minimum of 40 hours of education from the following list of classes offered by the Appraisal Institute or equivalent classes

approved in advance by the Department of Regulation and Licensing:

Convincing Residential Appraisals (4 hours)

Effective Appraisal Writing (4 hours)

Liability Management for Residential Appraisers (7 hours)

Quality Assurance in Residential Appraisals: Risky Appraisals = Risky Loans (7 hours)

Residential Sales Comparison Approach (7 hours)

Supporting Sales Comparison Grid Adjustments for Residential Properties (7 hours)

Residential Sales Comparison and Income Approaches (30 hours, including 2 hour exam)

Residential Report Writing and Case Studies (15 hours, including 1 hour exam)

Advanced Residential Applications and Case Studies / Part 1 (15 hours, including 1 hour exam)

Residential Case Study (39 hours, including 3 hour exam)

Mr. Bauch shall submit proof of successful completion in the form of verification from the institution providing the education to the following address:

Department Monitor

Department of Regulation and Licensing,

PO Box 8935, Madison, WI 53708-8935.

Fax (608) 266-2264

Tel. (608) 267-3817

None of the education completed pursuant to this order may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

In the event Mr. Bauch fails to successfully complete the educational requirements in the manner set forth, or to obtain an extension of time for good cause, his Real Estate Appraisers license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until he provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Ralph Bauch's Real Estate Appraisers license is hereby **LIMITED** starting on the 10th business day after the date of this Order, in that he shall not supervise the work of other appraisers or unlicensed persons performing appraisal work until the Real Estate Appraisers Board reviews and approves three appraisal reports chosen from a list of appraisals prepared by Mr. Bauch following completion of the educational requirements above.

IT IS FURTHER ORDERED that Ralph Bauch pay the Department's costs of this matter in the amount of **\$354.68** within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor. In the event Mr. Bauch fails to pay the costs within the time and in the manner as set forth above, his Real Estate Appraisers license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that the violation of any of the terms of this Order shall 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 discipline.

IT IS FURTHER ORDERED that file 07 APP 150 be closed.

Dated this 19th day of November, 2008.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton
Board Chair