

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
MICHELLE A. VAN NULAND,	:	LS09022511APP
RESPONDENT.	:	

Division of Enforcement case file 08 APP 046

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

Michelle A. Van Nuland
W2529 Valleywood Lane
Appleton, WI 54915

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. Michelle A. Van Nuland is licensed in the State of Wisconsin as a Real Estate Appraiser having license # 4-1580, first issued on June 19, 2003.
2. Ms. Van Nuland’s most recent address on file with the Department of Regulation and Licensing (“Department”) is W2529 Valleywood Lane, Appleton, WI 54915.
3. On January 2, 2008, Ms. Van Nuland prepared an appraisal for property at 229 West Bell Street in Neenah, Wisconsin.
4. In her appraisal and appraisal report, Ms. Van Nuland failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) in the following ways:
 - (a) Although the transaction was a refinance or extension of credit, the contract section misleadingly states that the appraiser was not given a copy of the sale contract.
 - (b) The neighborhood boundaries provided do not reflect the subject market area.
 - (c) The present land use does not reflect the neighborhood described.
 - (d) The subject is reported to be located on “a busy street” with no discussion of how this would impact marketability.
 - (e) Although the subject is located at an intersection controlled by traffic lights, the report indicates that there are no adverse site conditions or external factors.

- (f) The subject is reported to be in average interior/exterior condition with no discussion or details of remodeling or recent updating of a 40-year-old house.
- (g) The report mistakenly lists a sale price of \$118,000 in August of 2007, when the sale for \$118,000 occurred in August of 2001.
- (h) The subject sold for \$125,000 in July of 2007. This is not mentioned in the report, and there is no discussion, rationale or justification for an \$18,000 increase in the value of the subject property over six months (much less an increase of \$25,000 over five months, based on Ms. Van Nuland's incorrect statement that the subject sold for \$118,000 in August of 2007).
- (i) The appraisal order from the lender indicates an estimated value of \$140,000 - \$150,000, and Ms. Van Nuland reported an estimate of value of \$143,000.
- (j) The comparable sale/listing data are very broad and provide no useful information to the reader as to what similar properties have sold for, or the range of competitive listings.
- (k) The report contains no explanation for why more similar 1.5 story home sales, including one on a busy street, were not utilized in the report.
- (l) None of the comparable sales is located on a busy street, and no grid adjustment was made for this negative locational factor.
- (m) The report indicates that there were no concessions for Sale 2, however, the sale price was \$8,650 over the list price without explanation.
- (n) Sales 2, 3 and 4 had fireplaces that were not reflected on the adjustment grid.
- (o) Sale 3 had prior listings within the previous year that were not reported.
- (p) No data were presented in the report to explain how the income approach was developed or to support the gross rent multiplier used.
- (q) Although the scope of work indicates that the comparables sales were inspected from the street, the photos of the comparable sales all appear to be downloaded from the MLS database, indicating that they were not inspected.
- (r) Ms. Van Nuland violated USPAP S.R. 1-1 (a) which requires an appraiser to "be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal"; S.R. 1-1 (b) which requires that an appraiser "not commit a substantial error of omission or commission"; and S.R. 1-1 (c) which requires that an appraiser "not render appraisal services in a careless or negligent manner".
- (s) Ms. Van Nuland violated the Conduct section of the USPAP Ethics Rule by accepting an assignment that includes the reporting of predetermined opinions or conclusions and by communicating assignment results in a misleading manner.

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 229 West Bell Street in Neenah, Respondent Michelle A. Van Nuland violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, and is subject to discipline under section 458.26 (3), Wis. Stats.

ORDER

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

IT IS FURTHER ORDERED that Michelle A. Van Nuland is hereby REPRIMANDED.

IT IS FURTHER ORDERED that within six months of the date of this Order, Ms. Van Nuland must successfully complete further training in the application of the Sales Comparison Approach. Specifically, she must complete either the following courses offered by the Appraisal Institute, or equivalent courses approved in advance by the Department Monitor (below):

- Residential Market Analysis and Highest & Best Use (15 hr), and
- Basic Appraisal Procedures (30 hr)

Ms. Van Nuland 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 Ms. Van Nuland fails to successfully complete the educational requirements in the manner set forth, or to obtain an extension of time for good cause, her 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 she provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Michelle A. Van Nuland's Real Estate Appraisers license is hereby **LIMITED** starting on the 10th business day after the date of this Order, as follows:

- every appraisal work file shall contain a hard copy of the assignment from the lender, and
- every appraisal work file shall adequately document the listing or sales history for the subject property and the comparable sales.

This limitation shall continue for a minimum of two years following the issuance of this order, at which time Ms. Van Nuland may petition the Board for its removal.

IT IS FURTHER ORDERED that Ms. Van Nuland pay the Department's costs of this matter in the amount of **\$195.07** 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 Ms. Van Nuland fails to pay the costs within the time and in the manner as set forth above, her 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 file 08 APP 046 be closed.

Dated this 25th day of February, 2009.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Sharon Fiedler