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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
DONALD L. WALDVOGEL, : ORDER 0000 400
RESPONDENT. :

Division of Enforcement case file 07 APP 001

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

Donald L. Waldvogel
W 2537 Crosstown Road
Hilbert, WI 54129

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 to 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 the 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. Donald L. Waldvogel is licensed in the State of Wisconsin as a Real Estate Appraiser and certified as a Certified General Appraiser with license number 10-644, first issued on October 5, 1994.
2. Mr. Waldvogel's most recent address on file with the Department of Regulation and Licensing ("Department") is W 2537 Crosstown Road, Hilbert, WI 54129.

3. Mr. Waldvogel supervised Daniel Schmal, who performed appraisals and prepared appraisal reports for properties referred to as:

- a. Jeffrey and Tammy Styczynski property,
- b. Mike and Christine Gabsch property, and
- c. Silver Leaf Dairy property.

4. Mr. Schmal, supervised by Mr. Waldvogel, designated his appraisal reports to be “self-contained” reports although they did not contain enough detail to qualify as self-contained reports.

5. Mr. Schmal was asked to provide a sample of a self-contained report and he submitted a report for property referred to as DeJardin Farms LLC. This appraisal and appraisal report was also supervised by Mr. Waldvogel.

6. The appraisal and appraisal report for DeJardin Farms LLC failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) in that “comparable sales” were selected that were not truly comparable to the subject property, especially in size, which is a violation of USPAP Standards Rule (SR) 1-1 (b), SR 1-4 (a & b), SR 2-2 (b) (ix). The sales that were selected for comparison were much smaller than the subject, raising a substantial unanswered question as to whether the highest and best use of the property as improved is actually as an 855 acre dairy operation, when the comparable sales are operations of 19 to 155 acres.

7. The appraisal reported a proposed barn with 278 free stalls, a breezeway, and a 5 million gallon lagoon, but the proposed improvements were not completed, and therefore were hypothetical. The report did not clearly or conspicuously report that this information was hypothetical, which is a violation of SR 1-2 (g) and SR 2-1 (c). In addition, the appraisal erroneously attributed depreciation to the proposed barn and lagoon.

8. The Income Approach in the report stated that land rents were verified with the county FSA office, but the data were not included in the report.

9. The report used a CAP rate of 5% which was not supported by any method of computation and was not market derived.

10. No supporting data was provided in the report for the adjustments made to the comparable sales.

11. Under USPAP SR 2-3, a supervisor accepts complete responsibility for work which he signs for as a supervisor.

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 his supervision of the appraisals and appraisal reports as detailed in the findings of fact above, Respondent Donald L. Waldvogel 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 within twelve months of the date of this Order, the respondent, Donald L. Waldvogel, must successfully complete the standard 15-hour USPAP course as well as one (1) of the following:

- 1) a 32 hour course in advanced farm, ranch, and rural appraising, or
- 2) a 32 hour course in the principles of farm, ranch and rural appraising, or
- 3) a 16 hour course in Dairy Facility Appraising and a 15 hour course in Farm and Land Appraisal.

As applicable, 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. Classes may be taken from any educational institution approved by the Department of Regulation and Licensing and approved in advance. Mr. Waldvogel 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

IT IS FURTHER ORDERED that a 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 Respondent fails to timely comply with the ordered continuing education as set forth above, the Respondent's license may, in the discretion of the board or its designee, be

SUSPENDED, without further notice or hearing, until Respondent provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that file 07 APP 001 be closed.

Dated this 3 day of September, 2010.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton *MB*
Marla Britton, Board Chair, or another member of the Board