

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 DISCIPLINARY :
PROCEEDINGS AGAINST :

: **FINAL DECISION AND ORDER**

MICHAEL D. DENIS, :
RESPONDENT. :

: *ORDER 0000682*
:

Division of Enforcement Case File 07 APP 041

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

Michael D. Denis
23 West Keenan Street
Rhineland, WI 54501

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

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 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. Michael D. Denis is licensed in the State of Wisconsin as a Certified Residential Appraiser and Licensed Appraiser, having license number 9-1266, first issued on June 18, 2002 and current through December 14, 2011.
2. Mr. Denis' most recent address on file with the Department of Regulation and Licensing ("Department") is 23 West Keenan Street, Rhineland, Wisconsin 54703.
3. Prior to 2007, Mr. Denis submitted an application to the Department for certification and licensure as a Certified General Appraiser.

4. In 2007, three commercial appraisals performed by Mr. Denis were selected for Uniform Standards of Professional Appraisal Practice (“USPAP”) compliance review as part of his application.

5. During this review, it was determined that Mr. Denis’ commercial appraisals did not fully comply with USPAP. Accordingly, Mr. Denis’ application was denied and the appraisals were referred to the Department’s Division of Enforcement (“Division”) for investigation.

6. One such appraisal, performed by Mr. Denis on January 28, 2006, was of a commercial property known locally as the Ziebell Mini-Warehouse Property located at 9226 County Highway D in Hazelhurst, Wisconsin (“Hazelhurst property”).

7. Mr. Denis’ appraisal of the Hazelhurst property was reviewed by the Division and it was determined that the commercial appraisal and appraisal report violated the USPAP Standards Rules (SR) as follows:

- a. In his appraisal report, Mr. Denis utilized a Small Commercial Property Appraisal form intended for and specific to two to four family small residential income properties (i.e., a residential application) that does not accommodate typical descriptive attribute sets for a commercial property with multiple improvements like the Hazelhurst property. (SR2-1(a))
- b. Throughout most of his appraisal report, Mr. Denis described the Hazelhurst property building as average, however in the improvement analysis box he indicated the quality of construction as good. (SR1-1(c))
- c. In his appraisal report, Mr. Denis overstated the heating and ventilation costs assigned to the Hazelhurst property building in contradiction of the Marshall Valuation Service commercial cost manual relied upon elsewhere in Mr. Denis’ report. (SR1-1(a))
- d. In his appraisal report, Mr. Denis did not fully provide the basis for the amount of physical depreciation he assigned to the Hazelhurst property building. The assigned amount of physical depreciation does not correlate with the effective age and remaining useful economic life estimates/physical life parameters for the building. (SR1-1(a))
- e. In his appraisal report, Mr. Denis overstated the land value of the Hazelhurst property in contradiction of the Wisconsin Department of Revenue Equalization report data relied upon elsewhere in Mr. Denis’ report. (SR1-1(a) and (c))

- f. In his appraisal report, Mr. Denis utilized two comparable sales that bear no relationship to the Hazelhurst property from a use, utility, marketability, or potential purchaser perspective. (SR1-1(a, b, c) and SR1-4)
 - g. In his appraisal report, Mr. Denis made inappropriate and inaccurate adjustments to the only sale comparable to the Hazelhurst property (in contradiction of values assigned in the cost approach). (SR1-1(a, b, c), SR1-4 and the Ethics Rule)
 - h. In his appraisal report, Mr. Denis failed to recognize or employ a significant set of sale and listing data comparable to the Hazelhurst property. (SR1-1(a, b) and SR1-4(a))
 - i. In his appraisal report, Mr. Denis failed to define technical terms that would enable the intended users to properly understand the report. (SR1-1(a) and SR2-1(b))
 - j. In his appraisal report, Mr. Denis failed to include rationale behind inputs into the mathematical equation that generates the capitalization rate estimate. Mr. Denis' inputs were also inconsistent relative to other sections of his report. (SR1-4(c)(iii) and SR2-2(b)(ix))
 - k. In his appraisal report, Mr. Denis indicates use of a capitalization rate of .076, however he utilized a rate of .083 in the actual value calculation without explanation. (SR1-1(c))
8. In his appraisal report, Mr. Denis estimated the market value of the Hazelhurst property to be \$361,000.
9. In his appraisal report, Mr. Denis used the title 'Wisconsin certified residential appraiser.'
10. The other two commercial appraisals performed by Mr. Denis (completed December 6, 2005 and April 15, 2006) that were selected for compliance review with his application for licensure as a Certified General Appraiser, as well as three appraisals performed by Mr. Denis (completed on December 23, 2002, June 10, 2003 and September 17, 2003) that were submitted to the Division by the United States Department of Treasury, Office of the Comptroller of the Currency ("OCC") in 2008, contain USPAP violations and violations of Wisconsin law similar to those described in Findings of Fact 7-9.
11. Mr. Denis admits no wrong doing, but desires to resolve this case by Stipulation.
12. The total of all fees Mr. Denis received for performing the six non-conforming appraisals identified above is \$3,000.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26(3) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. By the conduct described in Finding of Fact 7.a., Mr. Denis violated USPAP SR2-1(a) by failing to clearly and accurately set forth his commercial appraisal in a manner that will not be misleading.
3. By the conduct described in Findings of Fact 7.b., 7.e.-7.g. and 7.k., Mr. Denis violated USPAP SR1-1(c).
4. By the conduct described in Finding of Fact 7.h., Mr. Denis violated USPAP SR1-4(a) by failing to analyze available comparable sales data to indicate a value conclusion.
5. By the conduct described in Finding of Fact 7.i., Mr. Denis violated USPAP SR2-1(b) by failing to include sufficient information in his report to enable the intended users to understand the report properly.
6. By the conduct described in Finding of Fact 7.j., Mr. Denis violated USPAP SR1-4(c)(iii) by failing to analyze available comparable data to estimate rates of capitalization and/or rates of discount.
7. By the conduct described in Finding of Fact 7.j., Mr. Denis violated USPAP SR2-2(b)(ix) by failing to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions.
8. By the conduct described in Finding of Fact 8, Mr. Denis violated Wis. Admin. Code § RL 81.05(2) by conducting an appraisal of commercial real estate with a transaction value exceeding \$250,000.
9. By the conduct described in Finding of Fact 9, Mr. Denis violated Wis. Stat. § 458.16(1) and Wis. Admin. Code § RL 86.01(3) by using the title "Wisconsin certified residential appraiser" on an appraisal report pertaining to commercial real estate having a transaction value of more than \$250,000.
10. As a result of the above violations, Mr. Denis has violated Wis. Admin. Code §§ RL 86.01(1) and (2), thereby subjecting himself to discipline pursuant to Wis. Stat. §§ 458.26(3)(b), (c) and (i).

ORDER

NOW, THEREFORE, IT IS ORDERED that:

1. The attached Stipulation is hereby accepted.
2. The Certified Residential Appraiser and Licensed Appraiser license issued to Michael D. Denis (license number 9-1266) is hereby REPRIMANDED.
3. Michael D. Denis shall, within one year of the date of this Order, successfully complete the "15 hour National USPAP Equivalent Course" and at least eighteen (18) hours of education from among the following courses:
 - i. Income Valuation of Small Mixed-Use Properties (16 hours)
 - ii. Sales Comparison Valuation of Small Mixed-Use Properties (16 hours)
 - iii. Appraisal Curriculum Overview -General (15 hours)
 - iv. Appraisal Review Seminar - General (7 hours)
 - v. FHA Appraisal Process (7 hours)
 - vi. Cost Approach (7 hours)
 - vii. Appraisal-Ethics & Competency (7 hours)

The chosen courses must include an exam component. Successful completion of the education includes taking and passing the exam(s) offered for the courses. These courses may be taken through the Appraisal Institute or equivalent/substitute courses may be taken through another educational institution, where the course and/or educational institution are approved in advance by the Department Monitor. Mr. Denis 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 thirty-three (33) hours of 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, and also may not be used in future attempts to upgrade Mr. Denis' credential. Where the education completed pursuant to this Order exceeds thirty-three (33) hours, those hours in excess of thirty-three (33) may be used to satisfy continuing education requirements that are or may be instituted by the Board or the Department, and may be used in future attempts to upgrade Mr. Denis' credential.

4. Michael D. Denis shall pay a FORFEITURE in the amount of THREE THOUSAND DOLLARS (\$3,000).

5. Michael D. Denis shall pay the Department's COSTS of this matter in the amount of \$6,400.

6. Payment of the FORFEITURE shall be submitted within 30 days from the date of this Order. Payment of the COSTS shall be submitted within two (2) years from the date of this Order as follows: 1) \$1,600 within 180 days from the date of this Order, 2) \$1,600 within 180 days from the first payment of Costs, 3) \$1,600 within 180 days of the second payment of Costs, and 4) \$1,600 within 180 days of the third payment of Costs. Payment of the FORFEITURE and COSTS shall be made payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor at the address referenced in paragraph 3 above.

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 Mr. Denis' 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 Mr. Denis fails to comply with the ordered continuing education or fails to timely submit payment of the ordered forfeiture or costs as set forth above, Mr. Denis' license (number 9-1266) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until he has complied with the ordered continuing education and/or payment of the forfeiture and costs.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Maria L. Burton
A Member of the Real Estate Appraisers Board
MLH

2/25/11
Date