

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
EDWARD F. POTTER, :
RESPONDENT. : ORDER 0001234

Division of Enforcement Case No. 11 APP 006

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

Edward F. Potter
5812 Tahoe Drive
Racine, WI 53406

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

Division of Enforcement
Department of Safety and Professional Services
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 Real Estate Appraisers Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Edward F. Potter (Respondent) (dob 6/7/1951) is licensed in the State of Wisconsin as a Licensed Appraiser, having license number 4-2017, first issued on 2/14/2007 and current through 12/14/2011. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 5812 Tahoe Drive, Racine, WI 53406.
2. Respondent has not been previously disciplined by the Board.
3. In December 2010, Respondent submitted three appraisal reports to the Real Estate Appraisers Application Advisory Committee (REAAAC) in support of Respondent's

application for licensure as a Certified General and Licensed Appraiser. The appraisals pertained, respectively, to properties identified as 3020 Packard Avenue, Racine, WI; Hamilton Avenue, Racine, WI; and 6453 Rosemary Lane, Racine, WI.

4. Based upon findings of noncompliance with the Uniform Standards of Professional Appraisal Practice (USPAP) in each of the three appraisals, the REAAAC recommended rejecting the three appraisals and referred the appraisals to the Department's Division of Enforcement for investigation.

5. The three appraisals were reviewed by the Division of Enforcement and it was determined that the appraisals and appraisal reports violated USPAP Rules and/or Standards Rules (SR) as follows:

3020 Packard Avenue, Racine, WI

- a. Respondent stated in the transmittal letter that the purpose of the appraisal was to develop an opinion of value of the subject property as vacant. The transmittal letter and appraisal subsequently reported the value of the subject property as improved. (SR 1-1(c))
- b. Respondent reported in the appraisal report addendum that Comparable Sale No. 1 was sold November 23, 2004 and Comparable Sale No. 2 was sold September 18, 2007. The grid indicates that Comparable Sale No. 1 was sold in September 2007, and Comparable Sale No. 2 was sold in November 2004. (SR 1-1(c))
- c. Respondent did not state that the Village of Mount Pleasant Computer Aided Mass Appraisal System was used to develop and report the valuations for this appraisal. (SR 2-2(c)(viii))
- d. Respondent used unclear language in the report, including comments such as, "In developing the assessed land value for the subject parcel, three sales were utilized, and were the only sales within the last six years that required the fewest adjustments." (Scope of Work Rule, Competency Rule, SR 1-1 (a,b,c), SR 2-1(a,b,c))

Hamilton Avenue, Racine, WI

- e. Respondent reported in the appraisal report addendum that Comparable Sale No. 1 was sold November 23, 2004 and Comparable Sale No. 2 was sold September 18, 2007. The grid indicates that Comparable Sale No. 1 was sold in September 2007, and Comparable Sale No. 2 was sold in November 2004. (SR 1-1(c))
- f. Respondent did not state that the Village of Mount Pleasant Computer Aided Mass Appraisal System was used to develop and report the valuations for this appraisal. (SR 2-2(c)(viii))

6453 Rosemary Lane, Racine, WI

- g. Despite a minimal variance in site sizes, Respondent's concluded site adjustments ranged from \$1,900 to \$11,300. Respondent did not include his rationale explaining the wide range. (Competency Rule, SR 1-1(a,b,c), SR 2-1(a,b,c))
- h. Respondent did not state that the Village of Mount Pleasant Computer Aided Mass Appraisal System was used to develop and report valuations for this appraisal. (SR 2-2(c)(viii))

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. By the conduct described in paragraph 5(a), 5(b) and 5(e) of the Findings of Fact, Respondent violated USPAP SR 1-1(c) by rendering appraisal services in a careless or negligent manner.
3. By the conduct described in paragraph 5(d) and 5(g) of the Findings of Fact, Respondent violated the USPAP Competency Rule and USPAP SR 1-1(a,b,c) and SR 2-1(a,b,c) by failing to be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce a credible appraisal, by committing a substantial error of omission or commission that significantly affected the appraisal, by rendering appraisal services in a careless or negligent manner, by failing to clearly and accurately set forth the appraisal in a manner that will not be misleading, by preparing reports that failed to contain sufficient information to enable the intended users of the appraisal to understand the report properly, and by failing to clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.
4. By the conduct described in paragraph 5(d) of the Findings of Fact, Respondent violated the USPAP Scope of Work Rule by failing to provide sufficient information to allow intended users to understand the scope of work performed.
5. By the conduct described in paragraphs 5(c), 5(f), and 5(h) of the Findings of Fact, Respondent violated USPAP SR 2-2(c)(viii) by failing to disclose that the Village of Mount Pleasant Computer Aided Mass Appraisal System was used to develop and report valuations for the respective appraisals.
6. As a result of the above violations, Respondent Edward F. Potter has violated Wis. Admin. Code §§ RL 86.01(1) and (2), and is therefore subject to discipline pursuant to Wis. Stat. §§ 458.26(3)(b), (c) and (i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. The licensed appraiser license issued to Respondent Edward F. Potter (license number 4-2017) is hereby LIMITED as follows:
 - a. Respondent shall, within one year of the date of this Order, successfully complete the following courses offered by the Appraisal Institute, or equivalent courses offered by a provider pre-approved by the Department Monitor, including taking and passing any exam offered for the courses:
 - i. General Appraiser Sales Comparison Approach (30 Hours)
 - ii. General Appraiser Report Writing and Case Studies (30 Hours)
 - iii. National USPAP Course (15 Hours)
 - b. The courses listed above shall be taken in person, in a classroom setting, unless an online course is approved by the Department Monitor.
 - c. Respondent shall submit proof of completion 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 have been or may be instituted by the Board, Wisconsin Department of Safety and Professional Services or similar authority in any state, and also may not be used in future attempts to upgrade a credential in any state.
 - d. This limitation shall be removed from Respondent's license and Respondent will be granted a full, unrestricted license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
3. The licensed appraiser license issued to Respondent Edward F. Potter (license number 4-2017) is hereby further LIMITED as follows:
 - a. Following completion of the education required at paragraph 2.a. of this Order, and continuing for a period of one year thereafter, Respondent shall submit to the Department Monitor, or designee, a quarterly log of appraisals completed. If Respondent has not completed any appraisals during the quarterly period, then he shall prepare and submit at least two demonstration appraisal reports to the Department Monitor, or designee.
 - b. Submission of the appraisal log shall take place no later than 10 days following the end of any quarterly period. By way of example, if Respondent has

completed all of the required education on March 15, 2012, his initial quarterly period would cover the time frame of March 15, 2012-June 15, 2012; his first appraisal log submission would be due no later than June 25, 2012. Each appraisal log shall consist of a list of all appraisals performed in the three-month period preceding the end of said quarter.

c. The Department Monitor or designee may select up to three (3) of the appraisals for review of compliance with USPAP standards, and, upon request, Respondent shall immediately submit the requested appraisals and work file materials to the Department Monitor for this purpose. In the event that the Department Monitor's, or designee's, review finds noncompliance with USPAP standards, the Department Monitor, or designee, may recommend further education and/or training in the area of noncompliance, or refer the matter to the Department's Division of Enforcement.

d. This limitation shall be removed from Respondent's license one year following completion of the education required at paragraph 2.a. of this Order.

4. Within 1 year of the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1000.00.


5. Proof of successful course completion, submission of the appraisal log, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be mailed, faxed or delivered by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

6. 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 submit payment of the costs as ordered, fails to comply with the ordered education or fails to submit appraisal logs and other materials as set forth above, Respondent's license (no. 4-2017) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs, completion of the education and submission of the appraisal logs and other materials.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
Michael J. Berndt, Chief Legal Counsel
Department of Safety and Professional Services
On Behalf of the Board

11/30/11
Date