

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

JOHN KRUEGER,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002003

Division of Enforcement Case No. 11 APP 048

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

John Krueger
N58W35483 Carriage Court
Oconomowoc, WI 53066

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. Respondent John Krueger (dob 11/14/1962) is licensed in the State of Wisconsin as a Certified Residential Appraiser and Licensed Appraiser, having license number 9-262, first issued on 12/09/1991 and current through 12/14/2013. Mr. Krueger's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N58W35483 Carriage Court, Oconomowoc, WI 53066.
2. Respondent has not been previously disciplined.
3. On or about 2/13/2007, Respondent performed an appraisal of residential property located at 16465 W. North Avenue, Brookfield, WI 53005.

4. Respondent's appraisal was reviewed by the Division of Enforcement and it was determined that the appraisal and appraisal report violated the Uniform Standards of Professional Appraisal Practice (USPAP) Rules and/or Standards Rules (SR) (2006 ed.) as follows:

- a. Respondent misrepresented the physical characteristics of the comparable sales by describing their condition as equal to the subject property's condition when photographs indicate that the comparable sales' effective ages (condition), construction quality, design and amenities were significantly superior. [Conduct Section of the Ethics Rule; SR 1-1(a,b); SR 2-1(a)]
- b. Respondent selected inappropriate comparable sales and overlooked sales which were more similar and proximate when selecting comparable sales for analysis. This resulted in an inflated value conclusion. [Conduct Section of the Ethics Rule; SR 1-1(a,b); SR 1-4; 1-4(a); SR 2-1(a)]
- c. Respondent failed to properly analyze the contributory value of the subject's 391 square foot solarium. Respondent made a +\$10,000 adjustment to all comparable sales to reflect contributory value of the solarium. He correctly excluded the solarium from the subject property's gross living area and calculated its value separately, but he failed to support the \$10,000 adjustment. There is no evidence that such a significant adjustment is warranted. In the appraisal, Respondent adjusted the subject's primary living space at approximately \$20.00 per square foot of gross living area. The solarium adjustment is converted to a unit price of \$25.58, which is 28% higher than the gross living area adjustment Respondent made for the primary living area; that is, Respondent placed more value per square foot on the solarium than on the remaining home with bathrooms and kitchen. [Scope of Work Rule; Competency Rule; SR 1-1(a,b)]

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 Findings of Fact 4.a. and 4.b., Respondent violated the Conduct Section of the Ethics Rule by accepting an assignment that includes the reporting of predetermined opinions and conclusions.

3. By the conduct described in Finding of Fact 4.c., Respondent violated the USPAP Scope of Work Rule by failing to include in the scope of work the research and analyses that are necessary to develop credible assignment results.

4. By the conduct described in Finding of Fact 4.c., Respondent violated the USPAP Competency Rule by failing to have the knowledge and experience to complete the assignment competently.

5. By the conduct described in Findings of Fact 4.a., 4.b. and 4.c., Respondent violated USPAP SR 1-1(a) by failing to be aware of, understand and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.

6. By the conduct described in Findings of Fact 4.a., 4.b. and 4.c., Respondent violated USPAP SR 1-1(b) by committing a substantial error of omission or commission that significantly affects an appraisal.

7. By the conduct described in Finding of Fact 4.b., Respondent violated USPAP SR 1-4 by failing to collect, verify and analyze all information necessary for credible assignment results.

8. By the conduct described in Finding of Fact 4.b., Respondent violated USPAP SR 1-4(a) by failing to analyze such comparable sales data as are available to indicate a value conclusion when a sales comparison approach is necessary for credible assignment results.

9. By the conduct described in Findings of Fact 4.a. and 4.b., Respondent violated USPAP SR 2-1(a) by failing to clearly and accurately set forth the appraisal in a manner that will not be misleading.

10. As a result of the above violations, Respondent John Krueger has violated Wis. Admin. Code §§ RL (now SPS) 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. Respondent John Krueger is hereby REPRIMANDED.
3. The licensed appraiser license issued to Respondent Krueger (license number 9-262) is hereby LIMITED as follows:
 - a. Respondent John Krueger shall, within one year of the date of this Order, successfully complete 60 hours of education consisting of the following courses offered by the Appraisal Institute, or equivalent courses offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses:
 - i. USPAP (15 hours)
 - ii. 45 hours from the following courses:
 1. Residential Sales Comparison and Income Approaches (30 hours); and

2. Residential Report Writing and Case Studies (15 hours); or
3. Residential Market Analysis & Highest and Best Use (15 hours).

b. The courses listed above may be taken in person in a classroom setting or online.

c. Respondent John Krueger 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 or the Department.

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.

4. Within 90 days of the date of this Order, Respondent John Krueger shall pay COSTS of this matter in the amount of \$440.

5. Proof of successful course completion 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 or fails to comply with the ordered education as set forth above, Respondent's license (no. 9-262) 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 and completion of the education.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
A Member of the Board

8/22/2012
Date