

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

RICHARD BEYER,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: ORDER 0002004.
:

Division of Enforcement Case No. 11 APP 040

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

Richard Beyer
100 Buena Vista Drive
Darlington, WI 53530

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 Richard Beyer (dob 03/17/1941) was licensed in the State of Wisconsin as a Licensed Appraiser, having license number 10-511, first issued on 1/11/1994 and expired on 12/15/2011. Mr. Beyer's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 100 Buena Vista Drive, Darlington, WI 53530.

2. The Board previously disciplined Respondent on 8/25/2010 for violations of the Uniform Standards of Professional Appraisal Practice (USPAP) Rules and/or Standards Rules (SR) in an appraisal of farmland he performed with an effective date of 6/24/2009.

3. On or about 6/8/2007, Respondent served as the supervisory appraiser of Ellen Phillips (license number 4-1791) for an appraisal of residential property located at 12086 Woodberry Road, Darlington, WI 53530-9327.

4. The appraisal was reviewed by the Division of Enforcement and it was determined that the appraisal and appraisal report violated the USPAP Rules and/or Standards Rules (2006 ed.) as follows:

- a. The appraisal's value conclusion is \$168,000. The appraisal report indicates the current owner purchased the subject approximately one year earlier for \$85,000. The only analysis of the prior sale is the statement, "Subject may have sold undermarket; Subject was purchased from a friend/family member." The explanation that the new owners made significant improvements to account for the doubling in value is not credible. Photos of the subject property from a current MLS suggest that the improvements made by the borrowers amount to maintenance, not updating or remodeling. The subject subsequently sold in 2010 for \$67,000. [SR 1-1(a,b); SR 1-5(b); SR 2-2(b)(viii); Scope of Work Rule]
- b. The effective date of the appraisal was not changed after the subject property was re-inspected and new information incorporated in the appraisal report as a result of the re-inspection. [SR 1-2(d); SR 2-2(b)(vi)]
- c. The appraisal report misrepresented the physical characteristics of the subject property by failing to identify physical and functional depreciation, including by identifying the effective age of the subject as 15 years, and indicating that the improvements were "completely remodeled inside" when interior photographs clearly show it was not completely remodeled and was not similar to a home built 15 years earlier because it has only one bathroom, obsolete oil-fueled heat, and dated materials. [SR 1-2(e); SR 2-1(a)]
- d. The appraisal report contains the following errors: failure to make a sales grid adjustment for Sale 1's 40' x 50' barn; failure to make a sales grid adjustment for Sale 1's machine shed; failure to make a sales grid adjustment for Sale 3's municipal water and sewer service; failure to make a sales grid adjustment for Sale 3's newer kitchen and bathrooms; failure to make a sales grid adjustment for Sale 3's whirlpool tub and fireplace; failure to make a sales grid adjustment for Sale 4's outbuildings. [SR 1-1(c); SR 2-1(a)]
- e. Inappropriate comparable sales were selected and analyzed, which resulted in an inflated value conclusion. [SR 1-1(a,b,c); SR 1-4(a); SR 2-1(a); Conduct Section of the Ethics Rule; Competency Rule]
- f. The appraisal report fails to support the opinion of site value. No information is provided on the source or date of the cost data. An incorrect cost guide is used in the cost approach. The report estimates the subject property's site value at \$37,000 but does not provide any support for that opinion. The unit

prices used in the cost approach appear to be inflated and are not credible. There is no explanation of functional and external depreciation adjustments. [SR 1-1(a,b); SR1-4(b)(i,ii); SR 2-2(b)(viii)]

- g. Respondent intentionally destroyed records and work files less than five years after their preparation when he destroyed the work file related to the appraisal at issue in this case during the spring or summer of 2011. [Record Keeping Section of the Ethics Rule]

5. Respondent has allowed his appraiser credential to expire and has retired from the practice of real estate appraisal.

6. Respondent wishes to resolve the complaint filed in Division of Enforcement Case No. 11 APP 040 pursuant to said retirement and the surrender of his appraiser license (10-511).

7. Respondent does not admit to any of the violations alleged in the complaint filed in Case No. 11 APP 040, but he does not wish to contest them.

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 Finding of Fact 4.g., Respondent violated Wis. Stat. § 458.18(1) and the Record Keeping Section of the Ethics Rule by failing to retain the workfile for a period of at least five years after preparation.

3. By the conduct described in Finding of Fact 4.e., Respondent violated the Conduct Section of the Ethics Rule by failing to perform an assignment competently.

4. By the conduct described in Finding of Fact 4.e., 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 Finding of Fact 4.a., 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.

6. By the conduct described in Findings of Fact 4.a., 4.e. and 4.f., 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.

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

8. By the conduct described in Findings of Fact 4.d. and 4.e., Respondent violated USPAP SR 1-1(c) by rendering appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

9. By the conduct described in Finding of Fact 4.b., Respondent violated USPAP 1-2(d) by failing to identify the effective date of the appraiser's opinions and conclusions.

10. By the conduct described in Finding of Fact 4.c., Respondent violated USPAP SR 1-2(e) by failing to identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal.

11. By the conduct described in Finding of Fact 4.e., 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.

12. By the conduct described in Finding of Fact 4.f., Respondent violated USPAP SR 1-4(b)(i) by failing to develop an opinion of site value by an appropriate appraisal method or technique when a cost approach is necessary for credible assignment results.

13. By the conduct described in Finding of Fact 4.f., Respondent violated USPAP SR 1-4(b)(ii) by failing to analyze such comparable cost data as are available to estimate the cost new of the improvements when a cost approach is necessary for credible assignment results.

14. By the conduct described in Finding of Fact 4.a., Respondent violated USPAP SR 1-5(b) by failing to analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

15. By the conduct described in Findings of Fact 4.c., 4.d. and 4.e., 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.

16. By the conduct described in Finding of Fact 4.b., Respondent violated USPAP SR 2-2(b)(vi) by failing to state correctly the effective date of the appraisal.

17. By the conduct described in Findings of Fact 4.a. and 4.f., Respondent violated USPAP SR 2-2(b)(viii) by failing to describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions.

18. As a result of the above violations, Respondent Richard Beyer 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. The VOLUNTARY SURRENDER of the Certified General Appraiser and Licensed Appraiser license issued to Respondent Richard Beyer (license number 10-511), and the right to renew that license, is hereby ACCEPTED.
3. Respondent shall not seek to reinstate his license or apply for any real estate appraiser license or certification with the State of Wisconsin for at least one (1) year from the date of this Order.
4. In the event that Respondent seeks to reinstate his license or applies for any real estate appraiser license or certification, he shall submit a new application and meet all requirements for licensure or certification then existing at the time of his request. In meeting such requirements, Respondent may not use any education, examination or experience obtained by him prior to the date of this Order.
5. If Respondent seeks to reinstate his license or applies for any other license issued under Wis. Stat. chs. 440 to 480, then he shall pay the costs of investigating and prosecuting this matter, in the amount of \$510, before any such application may be considered. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent 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. 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.
7. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:


A Member of the Board

Date

8/22/2012