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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

FELIPE MALDONADO,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002005

Division of Enforcement Case No. 11 APP 037

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

Felipe Maldonado
3201 E. James Drive
Oak Creek, WI 53154

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 Felipe Maldonado (dob 11/22/1970) is licensed in the State of Wisconsin as a Certified Residential Appraiser and Licensed Appraiser, having license number 9-1762, first issued on 10/13/2009 and current through 12/14/2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3201 E. James Drive, Oak Creek, WI 53154.
2. Respondent has not been previously disciplined.
3. On or about 06/19/2011, Respondent performed an appraisal of a residential property located at 2910 97th Street, Sturtevant, WI 53177-2418.

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) as follows:

- a. Respondent misrepresented the physical characteristics of the subject property by: indicating a washer, dryer, dishwasher, microwave, wood stove and chain link fence were included in the valuation; indicating that the subject has a new furnace, central air, water heater, sump pump and storm doors; indicating basement area is 1,000 square feet when R's building sketch shows the basement size is 740 square feet; indicating the subject has 1 and a half baths when it has only one bathroom; indicating that the site size is .17 acre when it is .14 acre; incorrectly describing the kitchen as "updated;" describing the garage as both "attached" and "detached;" incorrectly identifying the basement foundation material as concrete when it is brick; incorrectly identifying the subject's exterior as vinyl when it is brick; indicating the subject has one story when it has 1 and a half stories; and failing to describe water damage and mold in the basement and stating "Property is free from damage" in the report. [SR 1-1(c); SR 1-2(e); SR 1-4; SR 2-1(a,b); Scope of Work Rule]
- b. Respondent misrepresented characteristics of the subject property by describing neighborhood boundaries not in the same county as the subject, failing to describe a large industrial area in close proximity to the subject and indicating that the percentage of neighborhood commercial use is only 10% when aerial photos indicate the actual percentage is much higher. [SR 1-1(c); SR 1-2(e); SR 1-4; SR 2-1(a,b); Scope of Work Rule]
- c. Respondent made additional errors of omission and commission such as stating on page one that the subject property is listed for sale and stating on page two that it is not currently listed for sale. None of the photographs of the comparable sales match the street addresses. The address of Sale 3 is incorrectly identified as 3049 91st Street instead of 3034 91st Street. Sale 3's gross living area is incorrectly listed at 988 square feet, necessitating a \$1,200 positive adjustment. The correct Sale 3 gross living area is 1,638 sq ft which would result in a -\$5,300 negative adjustment instead. Sale 3 also included an above ground pool that was not adjusted in the sales grid. Respondent failed to make a negative adjustment for Sales 1 and 2's basement finishes which are noted in MLS as extensive. Respondent failed to note a prior transfer of Sale 3 which was foreclosed by Fannie Mae on 4/29/2011, 2 months before the effective date of the appraisal report. [SR 1-1(c); SR 1-2(e); SR 1-4; SR 2-1(a,b); Scope of Work Rule]
- d. Respondent failed to investigate and analyze the subject property's legal non-conforming zoning status or site dimensions. Data in the section "one-unit housing trends" does not correlate to MLS data. Respondent states he only found comparable sales from \$122,000 to \$134,900 when there were at least

44 MLS sales in the village of Sturtevant in the one year preceding the effective date with sale prices from \$43,200 to \$232,000. [SR 1-3(a); SR 1-4]

- e. Respondent selected inappropriate comparable sales which resulted in an inflated value conclusion. [SR 1-1(a,b,c); Competency Rule; Conduct Section of Ethics Rule]
- f. Respondent failed to explain in the appraisal report why there is a significant difference between his value conclusion of \$132,000 and the accepted offer to purchase the property for \$76,500. [SR 1-5(a); SR 1-6(a)]
- g. Respondent failed to comply with HUD-required assignment conditions for an FHA loan despite representing himself as an FHA appraiser and home inspector. [Scope of Work Rule]
- h. In the cost approach, Respondent cited tax assessment of the site instead of market value and failed to correctly apply appropriate appraisal methods and techniques. [SR 1-1(a); SR 1-4(b)(i); Scope of Work Rule]
- i. Respondent revised the appraisal report four times without changing the report date. [SR 1-1(c); SR 2-2(b)(vi)]
- j. Respondent failed to keep in his work file a properly dated copy of each appraisal report that was submitted to the client. [Record Keeping Section of Ethics Rule]

5. Respondent desires to address the Board's concerns as soon as possible and has already registered with the Appraisal Institute to take the courses listed in paragraph 3.a. of the Order below, including the Residential Market Analysis and Highest & Best Use course held on August 13-14, 2012.

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.e., Respondent violated the Conduct Section of the Ethics Rule by communicating assignment results with the intent to mislead or defraud and by performing an assignment in a grossly negligent manner.

3. By the conduct described in Finding of Fact 4.j., Respondent violated the Record Keeping Section of the Ethics Rule by failing to keep true copies of all written reports.

4. By the conduct described in Finding of Fact 4.e., Respondent violated the USPAP Competency Rule by failing to properly identify the problem to be addressed and 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., 4.c., 4.g. and 4.h., 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 and failing to include in the report sufficient information to allow intended users to understand the scope of work performed.

6. By the conduct described in Findings of Fact 4.e. and 4.h., 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 Finding of Fact 4.e., 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.a., 4.b., 4.c., 4.e. and 4.i., 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 Findings of Fact 4.a, 4.b. and 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.

10. By the conduct described in Finding of Fact 4.d., Respondent violated USPAP SR 1-3(a) by failing to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, the physical adaptability of the real estate and market area trends.

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

12. By the conduct described in Finding of Fact 4.h., 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 1-5(a) by failing to analyze all agreements of sale, options and listings of the subject property current as of the effective date of the appraisal.

14. By the conduct described in Finding of Fact 4.f., Respondent violated USPAP SR 1-6(a) by failing to reconcile the quality and quantity of data available and analyzed within the approaches used.

15. By the conduct described in Findings of Fact 4.a., 4.b. and 4.c., 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 Findings of Fact 4.a., 4.b. and 4.c., Respondent violated USPAP SR 2-1(b) by failing to include sufficient information to enable the intended users of the appraisal to understand the report properly.

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

18. As a result of the above violations, Respondent Felipe Maldonado 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 Certified Residential Appraiser and Licensed Appraiser license issued to Respondent Felipe Maldonado (license number 9-1762) is hereby **SUSPENDED** for a minimum of 1 month, beginning 21 days following the date of this Order. The suspension shall continue until the Department Monitor receives proof that Respondent has successfully completed all of the education required in paragraph 3.a. of this Order. If such proof is received prior to the end of the 1-month suspension period, the suspension shall end after 1 month. If Respondent does not submit proof of completion of all of the education required in paragraph 3.a. of this Order before the end of the 1-month suspension period, the suspension shall end on the date that the Department Monitor receives proof that Respondent has successfully completed the required education.
3. The Certified Residential Appraiser and Licensed Appraiser license issued to Felipe Maldonado (license number 9-1762) is hereby **LIMITED** as follows:
 - a. Within 1 year of the date of this Order, Respondent Felipe Maldonado shall successfully complete 105 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. Basic Appraisal Principles (30 hours);
 - ii. Basic Appraisal Procedures (30 hours);
 - iii. Residential Market Analysis and Highest and Best Use (15 hours);
and
 - iv. Residential Sales Comparison & Income Approach (30 hours).
 - b. The courses listed above shall be taken in person in a classroom setting.
 - c. Respondent's successful completion of the courses listed above shall be accepted as fulfilling the terms of this Order if the courses are taken after the date

that Respondent signed the attached Stipulation, even if the courses are taken prior to the effective date of this Order.

d. Respondent shall submit proof of completion in the form of verification from the institution providing the education to the address stated in paragraph 5 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 and may not be used in future attempts to upgrade a credential in Wisconsin.

e. This limitation shall be removed from Respondent's license after Respondent satisfies the Board or its designee that he has successfully completed all of the ordered education.

4. The Certified Residential Appraiser and Licensed Appraiser license issued to Felipe Maldonado (license number 9-1762) is further LIMITED as follows:

a. For a period of 1 year following Respondent's successful completion of all courses listed in paragraph 3.a. of this Order, Respondent shall submit a quarterly log of all appraisals that he completed in the previous quarter to the Department Monitor. The first log will be due 3 months following the date that Respondent completed all courses listed in paragraph 3.a. of this Order, with subsequent logs due every 3 months thereafter. From each quarterly log, the Department Monitor may request that three reports with the full workfile be submitted to the Department for review.

b. This limitation shall remain in place for 1 year following Respondent's successful completion of all courses listed in paragraph 3.a. of this Order and shall be removed from Respondent's license after the Department Monitor has received 4 quarterly logs as described in paragraph 4.a. of this Order.

5. Proof of successful course completion and quarterly logs 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 comply with the ordered education or to provide quarterly logs as set forth above, Respondent's license (no. 9-1762) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with completion of the education and submission of the quarterly logs.

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