

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

ELLEN PHILLIPS,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002006

Division of Enforcement Case No. 11 APP 040

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

Ellen Phillips
1475 Phillips Lane
South Wayne, WI 53587

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 Ellen Phillips (dob 10/14/1957) is licensed in the State of Wisconsin as a Licensed Appraiser, having license number 4-1791, first issued on 5/5/2004 and current through 12/14/2013. Ms. Phillips' most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1475 Phillips Lane, South Wayne, WI 53587.
2. Respondent has not been previously disciplined.
3. On or about 6/8/2007, Respondent performed an appraisal of residential property located at 12086 Woodberry Road, Darlington, WI 53530-9327 under the supervision of supervisory appraiser Richard Beyer (license number 10-511).

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's value conclusion is \$168,000. In the appraisal report, Respondent 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." Respondent's 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. Respondent failed to change the effective date of the appraisal after she re-inspected the subject property and incorporated new information in the appraisal report as a result of the re-inspection. [SR 1-2(d); SR 2-2(b)(vi)]
- c. Respondent 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. Respondent made the following errors: Respondent failed to make a sales grid adjustment for Sale 1's 40' x 50' barn; Respondent failed to make a sales grid adjustment for Sale 1's machine shed; Respondent failed to make a sales grid adjustment for Sale 3's municipal water and sewer service; Respondent failed to make a sales grid adjustment for Sale 3's newer kitchen and bathrooms; Respondent failed to make a sales grid adjustment for Sale 3's whirlpool tub and fireplace; Respondent failed to make a sales grid adjustment for Sale 4's outbuildings. [SR 1-1(c); SR 2-1(a)]
- e. Respondent selected and analyzed inappropriate comparable sales, 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. Respondent failed to support the opinion of site value. No information is provided on the source or date of the cost data. Respondent used an incorrect cost guide in the cost approach. Respondent estimated the subject property's site value at \$37,000 but did not provide any support for her opinion in the report. 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); SR 1-4(b)(i,ii); SR 2-2(b)(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 Finding of Fact 4.e., Respondent violated the Conduct Section of the Ethics Rule by failing to perform an assignment competently.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. As a result of the above violations, Respondent Ellen Phillips 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 Ellen Phillips is hereby REPRIMANDED.
3. The licensed appraiser license issued to Respondent Ellen Phillips (license number 4-1791) is hereby LIMITED as follows:
 - a. Respondent Ellen Phillips 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. Online Residential Sales Comparison and Income Approaches (30 hours); and
 2. Residential Report Writing and Case Studies (15 hours); or
 3. Residential Site Valuation and Cost Approach (15 hours).

b. The courses listed above shall be taken in person in a classroom setting unless an online course is approved in advance by the Board's monitoring liaison or her designee.

c. Respondent Ellen Phillips 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 Ellen Phillips shall pay COSTS of this matter in the amount of \$580.

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. 4-1791) 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

Date

8/22/2012