

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
JOHN M. BOSANEC,	:	ORDER 0002286
RESPONDENT.	:	

Division of Legal Services and Compliance¹ Case Nos. 10APP020, 10APP053 and 11APP017

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

John M. Bosanec
807 St. Augustine Rd.
Colgate, WI 53017

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

Division of Legal Services and Compliance
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 Wisconsin 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 M. Bosanec (dob May 11, 1944) is licensed in the State of Wisconsin as a Certified Residential Appraiser and Licensed Appraiser, having license number 9-1231, first issued on August 15, 2001 and current through December 14, 2013. Respondent Bosanec's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 807 St. Augustine Rd., Colgate, WI 53017.

2. Respondent Bosanec has not previously been disciplined by the Board.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

3. In April 2007, L.K., a Wisconsin Licensed Appraiser, performed an appraisal of property located at 1500 S. 3rd St., Milwaukee, WI. Respondent Bosanec signed the appraisal report as L.K.'s supervisor.

4. On or about December 11, 2007, the Department received a complaint alleging that the subject appraisal over-valued the property by utilizing inappropriate comparable sales. Division of Legal Services and Compliance Case Number 07 APP 144 was subsequently opened for investigation.

5. In February 2008, L.K. performed an appraisal of property located at 4730 N. 71st St., Milwaukee, WI. Respondent Bosanec signed the appraisal report as L.K.'s supervisor.

6. On or about July 31, 2008, the Department received a complaint alleging that the subject appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP). Division of Legal Services and Compliance Case Number 08 APP 072 was subsequently opened for investigation.

7. In May 2007, L.K. performed an appraisal of property located at 1333 Marie Ct., Sheboygan, WI. Respondent Bosanec signed the appraisal report as L.K.'s supervisor.

8. On or about September 22, 2009, the Department received a complaint alleging misrepresentation/fraud in the subject appraisal report. Division of Legal Services and Compliance Case Number 09 APP 078 was subsequently opened for investigation.

9. On August 25, 2010, Division of Legal Services and Compliance Case Numbers 07 APP 144, 08 APP 072, and 09 APP 078 were closed due to pending litigation involving L.K. and Respondent Bosanec in civil court. Upon conclusion of the civil litigation, these cases were reopened on April 8, 2011 as Division of Legal Services and Compliance Case Number 11 APP 017.

10. In July 2007, L.K. performed an appraisal of property located at 5949 S. 31st St., Greenfield, WI. Respondent Bosanec signed the appraisal report as L.K.'s supervisor.

11. On or about March 12, 2010, the Department received a complaint alleging that the subject appraisal report over-valued the subject property. Division of Legal Services and Compliance Case Number 10 APP 020 was subsequently opened for investigation.

12. In December 2007, L.K. performed an appraisal of property located at W1240 Stokdyk-Ingelse Rd., Oostburg, WI. Respondent Bosanec signed the appraisal report as L.K.'s supervisor.

13. On or about September 16, 2010, the Department received a complaint alleging that the subject appraisal report over-valued the property. Division of Legal Services and Compliance Case Number 10 APP 053 was subsequently opened for investigation.

1500 S. 3RD ST., MILWAUKEE

14. The appraisal report for 1500 S. 3rd St., Milwaukee was reviewed by the Division of Legal Services and Compliance and it was determined that the appraisal and appraisal report contained USPAP and/or Standards Rules (SR) violations including, but not limited to:

- a. expanding the subject property's neighborhood boundaries to include comparable sales of a higher value. (SR 1-1(a,b,c), SR 1-2(e)(i), SR 1-3(a), SR 2-1(a).)**
- b. failing to disclose and analyze the subject property's site dimensions. (SR 1-2(e)(i), SR 2-1(a), SR 2-2(a,b,c)(iii).)**
- c. failing to disclose and analyze the effect of zoning on the subject property's value. (SR 1-2(e)(i), SR 1-3(a).)**
- d. failing to support the site value in the cost approach. (SR 1-1(a), SR 1-4(b)(i), Competency Rule.)**
- e. failing to select and analyze comparable sales similar to the subject property. (SR 1-1(a,b,c), SR 1-4(a), Competency Rule.)**
- f. failing to adequately reconcile the adjusted values of the comparable sales to a single value conclusion. (SR 1-1(a,b,c), SR 1-6(a), Competency Rule.)**
- g. failing to develop or report a reasonable exposure time linked to the value conclusion. (SR 1-2(c).)**

4730 N. 71ST ST., MILWAUKEE

15. The appraisal report for 4730 N. 71st St., Milwaukee was reviewed by the Division of Legal Services and Compliance and it was determined that the appraisal and appraisal report contained USPAP and/or SR violations including, but not limited to:

- a. failing to disclose the subject property's site dimensions. (SR 1-2(e)(i), SR 2-1(a), SR 2-2(a,b,c)(iii).)**
- b. failing to support the site value in the cost approach. (SR 1-1(a), SR 1-4(b)(i), Competency Rule.)**
- c. failing to develop or report a reasonable exposure time linked to the value conclusion. (SR 1-2(c).)**

1333 MARIE CT., SHEBOYGAN

16. The appraisal report for 1333 Marie Ct., Sheboygan was reviewed by the Division of Legal Services and Compliance and it was determined that the appraisal and appraisal report contained USPAP and/or SR violations including, but not limited to:

- a. containing inconsistent information pertaining to marketing time; failing to accurately report current market conditions; and failing to report or analyze the subject property's location near a major city traffic artery. (SR 1-3(a).)
- b. failing to discuss or analyze the subject property's extraordinary site size; and failing to support the subject property's reported condition. (SR 1-2(e)(i).)
- c. failing to disclose or analyze functional and external obsolescence in the cost approach. (SR 1-4(b)(iii), Competency Rule.)
- d. incorrectly identifying the subject property's zoning. (SR 1-2(e)(i), SR 1-3(a), Scope of Work Rule.)
- e. failing to select and analyze comparable sales similar to the subject property. (SR 1-1(a,b,c), SR 1-4(a), Competency Rule.)
- f. failing to correctly adjust for value differences between the subject property and comparable sales. (SR 1-4(a), SR 2-1(b).)
- g. failing to verify comparable sales data. (SR 1-4.)
- h. failing to develop or report a reasonable exposure time linked to the value conclusion. (SR 1-2(c).)

5949 S. 31ST ST., GREENFIELD

17. The appraisal report for 5949 S. 31st St., Greenfield was reviewed by the Division of Legal Services and Compliance and it was determined that the appraisal and appraisal report contained USPAP and/or SR violations including, but not limited to:

- a. failing to select and analyze comparable sales similar to the subject property. (SR 1-1(a,b,c), SR 1-4(a), Competency Rule.)
- b. failing to correctly adjust for value differences between the subject property and comparable sales. (SR 1-4(a), SR 2-1(b).)
- c. failing to adequately reconcile the adjusted values of the comparable sales to a single value conclusion. (SR 1-1(a,b,c), SR 1-6(a), Competency Rule.)
- d. failing to investigate, analyze or disclose the subject property's prior sale. (SR 1-5(b).)
- e. misrepresenting the physical characteristics, including age, of the subject property. (SR 2-1(a).)
- f. incorrectly identifying the subject property's zoning. (SR 1-2(e)(i), SR 1-3(a), Scope of Work Rule.)

- g. failing to correctly develop or support the site value in the cost approach. (SR 1-1(a), SR 1-4(b)(i), Competency Rule.)

W1240 STOKDYK-INGELSE RD., OOSTBURG

18. The appraisal report for W1240 Stokdyk-Ingelse Rd., Oostburg was reviewed by the Division of Legal Services and Compliance and it was determined that the appraisal and appraisal report contained USPAP and/or SR violations including, but not limited to:

- a. failing to select and analyze comparable sales similar to the subject property. (SR 1-1(a,b,c), SR 1-4(a), Competency Rule.)
- b. failing to correctly adjust or support adjustments for value differences between the subject property and comparable sales. (SR 1-4(a), SR 2-1(b).)
- c. failing to adequately reconcile the adjusted values of the comparable sales to a single value conclusion. (SR 1-1(a,b,c), SR 1-6(a), Competency Rule.)
- d. misrepresenting the physical characteristics, including age, of the subject property. (SR 2-1(a).)
- e. failing to correctly develop or support the site value in the cost approach. (SR 1-1(a), Competency Rule.)
- f. incorrectly identifying the subject property's zoning. (SR 1-2(e)(i), SR 1-3(a), Scope of Work Rule.)

19. In resolution of this matter, Respondent Bosanec consents to the entry of the following Conclusions of Law and Order

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 the Findings of Fact, Respondent Bosanec violated USPAP SR 1-1(a,b,c) by:

- a. failing to be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;
- b. committing a substantial error of omission or commission that significantly affects an appraisal; and
- c. 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.

3. By the conduct described in the Findings of Fact, Respondent Bosanec violated USPAP SR 1-2(c) by failing to develop an opinion of reasonable exposure time linked to the market value opinion.

4. By the conduct described in the Findings of Fact, Respondent Bosanec violated USPAP SR 1-2(e)(i) 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, including its location and physical, legal, and economic attributes.

5. By the conduct described in the Findings of Fact, Respondent Bosanec violated USPAP SR 1-3(a) by failing to identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends when developing a market value opinion.

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

7. By the conduct described in the Findings of Fact, Respondent Bosanec violated USPAP SR 1-4(a) by failing to analyze such comparable sales data as are available to indicate a value conclusion in the sales comparison approach.

8. By the conduct described in the Findings of Fact, Respondent Bosanec violated USPAP SR 1-4(b)(i,iii) by:

- a. failing to develop an opinion of site value by an appropriate appraisal method or technique; and
- b. failing to analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation) in the cost approach.

9. By the conduct described in the Findings of Fact, Respondent Bosanec 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 when developing a market value opinion.

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

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

12. By the conduct described in the Findings of Fact, Respondent Bosanec 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.

13. By the conduct described in the Findings of Fact, Respondent Bosanec violated USPAP SR 2-2(a,b,c)(iii) by:

- a. failing to describe information sufficiently to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;
- b. failing to summarize information sufficiently to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment; and
- c. failing to state information sufficiently to identify the real estate involved in the approach.

14. By the conduct described in the Findings of Fact, Respondent Bosanec violated the Competency Rule by failing to have the knowledge and experience to complete the subject assignment competently.

15. By the conduct described in the Findings of Fact, Respondent Bosanec violated the Scope of Work Rule by failing to determine and perform the scope of work necessary to develop credible assignment results.

16. As a result of the above violations, Respondent Bosanec 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

1. The attached Stipulation is accepted.

2. The Certified Residential Appraiser and Licensed Appraiser license of Respondent Bosanec (license number 9-1231) is **SUSPENDED** for a period of 60 days beginning 30 days from the date of this Order.

3. The Certified Residential Appraiser and Licensed Appraiser license issued to Respondent Bosanec (license number 9-1231) is **LIMITED** as follows:

a. Respondent shall, within one year of the date of this Order, successfully complete 75 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); and

- ii. Residential Sales Comparison & Income Approaches (30 hours);
and
- iii. Residential Site Valuation & Cost Approach (15 hours); and/or
- iv. Residential Market Analysis & Highest and Best Use (15 hours);
and/or
- v. Residential Report Writing & Case Studies (15 hours).

b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at 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 Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

c. 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 from the date of this Order, Respondent Bosanec shall pay COSTS of this matter in the amount of \$2,470.00.

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
DSPSMonitoring@wisconsin.gov

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 costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 9-1231) 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 forfeiture and 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

2/13/2013
Date