

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

JOSHUA L. POSTHUMA,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002294

Division of Legal Services and Compliance¹ Case No. 11 APP 060

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

Joshua L. Posthuma
125 Lake Court
Cedar Grove, WI 53013

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 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 Joshua L. Posthuma (dob 05/31/1984) is licensed in the State of Wisconsin as a Certified Residential Appraiser and Licensed Appraiser, having license number 9-1751, first issued on August 28, 2009 and current through December 14, 2013. Respondent Posthuma's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 125 Lake Court, Cedar Grove, WI 53013.

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

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

3. In August 2011, Respondent performed an appraisal of property located at N5409 Crystal Springs, Fredonia, WI. Respondent's appraisal report was dated September 7, 2011.

4. On or about December 27, 2011, the Department received a complaint alleging that the subject appraisal used inappropriate comparable sales, made inappropriate adjustments to the comparable sales and undervalued the property. Division of Legal Services and Compliance Case Number 11 APP 060 was subsequently opened for investigation.

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

a. Respondent committed multiple errors of omission/commission affecting his appraisal, including:

- i. failing to analyze the premium location of comparable sales 2 and 3. (SR 1-1(b), SR 1-4(a).)
- ii. failing to report a 32'x60' two level heated garage for comparable sale 4. (SR 1-1(b), SR 1-4(a).)
- iii. utilizing inappropriate comparable sales in terms of square footage. (SR 1-1(b), SR 1-4(a).)
- iv. including below grade square footage in the gross living area of comparable sale 2. (SR 1-1(b), SR 1-4(a).)

b. Respondent made a series of errors that, in the aggregate, affect the credibility of his appraisal results, including:

- i. failing to properly describe the neighborhood. (SR 1-1(c), SR 1-1(e)(i), SR 2-1(b).)
- ii. failing to provide any historical listing information and inaccurately reporting that such information was not available. (SR 1-1(c), SR 2-1(b).)
- iii. failing to report that comparable sales 1 and 3 are located on more heavily traveled streets than the subject property. (SR 1-1(c), SR 1-4(a).)
- iv. failing to report the existence of a below grade room in comparable sale 1. (SR 1-1(c), SR 1-4(a).)
- v. incorrectly reporting the contract date of comparable sale 4. (SR 1-1(c), SR 1-4(a).)
- vi. failing to support an adjustment for the subject property's indoor pool. (SR 1-1(c).)

- c. Respondent failed to sufficiently support his market analysis and market area trend conclusions. (SR 1-3(a), SR 2-2(b)(iii).)
- d. Respondent failed to support his analysis, if any, of the highest and best use of the subject property. (SR 1-3(b), SR 2-2(b)(ix).)
- e. Respondent failed to support the sales comparison approach and allocation method with sales or analyses. (SR 2-2(b)(viii).)
- f. Respondent failed to correctly adjust for value differences between the subject property and comparable sales. (SR 1-4(a), SR 2-1(b).)
- g. Respondent failed to properly perform a reconciliation of the adjusted values of the comparable sales to a single value conclusion and failed to perform a reconciliation in the cost approach. (SR 1-1(a,b), SR 1-6(a).)

6. In resolution of this matter, Respondent Posthuma 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 Posthuma violated 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 Posthuma violated SR 1-1(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.

4. By the conduct described in the Findings of Fact, Respondent Posthuma violated SR 1-3(a,b) by:

- a. failing to identify and analyze the affect on use and value of existing land use regulations, reasonably probably modifications of such land use regulations,

economic supply and demand, the physical adaptability of the real estate, and market area trends; and

b. failing to develop an opinion of the highest and best use of the real estate.

5. By the conduct described in the Findings of Fact, Respondent Posthuma violated 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.

6. By the conduct described in the Findings of Fact 5, Respondent Posthuma violated SR 1-6(a) by failing to reconcile the quality and quantity of data available and analyzed within the approaches used.

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

8. By the conduct described in the Findings of Fact, Respondent Posthuma violated SR 2-2(b)(iii,viii,ix) by:

a. failing to summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;

b. failing to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; and

c. failing to summarize the support and rationale for an opinion of highest and best use.

9. As a result of the above violations, Respondent Posthuma 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. Respondent Posthuma is REPRIMANDED.

3. The Certified Residential Appraiser and Licensed Appraiser license issued to Respondent Posthuma (license number 9-1751) is LIMITED as follows:

a. Within 6 months of the date of this Order, Respondent shall successfully complete 52 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 Procedures (30 hours);
- ii. Residential Market Analysis and Highest and Best Use (15 hours); and
- iii. Land and Site Valuation (7 hours).

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

c. Respondent shall submit proof of successful completion of 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 3.a.i. and 3.a.iii., above, may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or the Department. The education completed pursuant to 3.a.ii., above, may be used to satisfy 15 hours of Respondent's 28-hour continuing education requirements instituted by the Department for the 2011-2013 biennium.

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 from the date of this Order, Respondent Posthuma shall pay COSTS of this matter in the amount of \$1,040.00.

5. Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
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 comply with the ordered education as set forth above, Respondent's license (no. 9-1751) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of 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