

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JAMES D. DHEIN,  
RESPONDENT.

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FINAL DECISION AND ORDER

**ORDER 0002298**

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Division of Legal Services and Compliance<sup>1</sup> Case No. 12 APP 041

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

James D. Dhein  
513 Fremont St.  
Kiel, WI 53042

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 James D. Dhein (dob April 16, 1962) is licensed in the State of Wisconsin as a Certified Residential Appraiser and Licensed Appraiser, having license number 9-20, first issued on July 12, 1991, and current through December 14, 2013. Respondent Dhein's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 513 Fremont St., Kiel, WI 53042.

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

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<sup>1</sup> The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

3. On December 21, 2011, Respondent performed an appraisal of property located at W483 County Road X, New Holstein, WI. Respondent's appraisal report, dated December 22, 2011, provided a value of \$193,000 for the property.

4. On or about March 2, 2012, the Department received a complaint alleging that the subject appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP) and undervalued the subject property. Division of Legal Services and Compliance Case Number 12 APP 041 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 USPAP Rules and/or Standards Rules (SR) as follows:

- a. failed to identify or analyze that Comparable Sale 1 had a \$4,000 concession. (SR 1-1(b), SR 1-4(a).)
- b. incorrectly identified Comparable Sale 2 as an arm's length transaction when it was a REO property. (SR 1-1(b), SR 1-4(a).)
- c. failed to identify or analyze that Comparable Sale 2 was transferred on 10/27/10. (SR 1-1(b), SR 1-4(a), SR 1-5(b).)
- d. incorrectly identified the acreage of Comparable Sale 3. (SR 1-1(b), SR 1-4(a).)
- e. failed to correctly identify the ages of the subject property and comparable sales. (SR 1-1(c), SR 1-4(a).)
- f. failed to include sufficient data in the sales comparison approach to explain the reasoning and support for the analysis and the adjustments made in the sales grid. (SR 2-2(b)(viii).)
- g. failed to adequately explain why 10 acres were valued when public records indicate the subject property has 40 acres. (SR 1-2(e)(v), SR 2-1(a,c), SR 2-2(b)(x).)
- h. failed to adequately explain the hypothetical condition in the appraisal report. (SR 1-2(e)(v), SR 2-1(a,c), SR 2-2(b)(x).)
- i. failed to include data to support the highest and best use identification indicated in the appraisal report. (SR 1-3(b), SR 2-2(b)(ix).)
- j. failed to include data to indicate what sales were used to support the indicated value of the land. (SR 1-4(b)(i,ii), SR 2-1(b).)
- k. failed to include cost per square foot or total cost of basement square footage. (SR 1-4(b)(i,ii), SR 2-1(b).)

- l. incorrectly included the cost for the basement in the cost of the gross living area. (SR 1-4(b)(i,ii).)
- m. failed to analyze or support the calculation of depreciation in the cost approach. (SR 1-4(b)(i,ii), SR 2-1(b).)
- n. failed to include a summarization of the actual scope of work completed. (SR 2-2(b)(vii).)

6. In resolution of this matter, Respondent 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 violated USPAP SR 1-1(b,c) by:

- a. committing a substantial error of omission or commission that significantly affects an appraisal; and
- b. 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 violated USPAP SR 1-2(e)(v) 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 whether the subject property is a fractional interest, physical segment, or partial holding.

4. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-3(b) by failing to develop an opinion of the highest and best use of the real estate when necessary for credible assignment results in developing a market value opinion.

5. By the conduct described in the Findings of Fact, 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.

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

- a. failing to develop an opinion of site value by an appropriate appraisal method or technique; and

b. failing to analyze such comparable cost data as are available to estimate the cost new of the improvements, when the cost approach is necessary for credible assignment results.

7. By the conduct described in the Findings of Fact, 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, when the value opinion to be developed is market value.

8. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-1(a,b,c) by:

a. failing to clearly and accurately set forth the appraisal in a manner that will not be misleading;

b. failing to include sufficient information to enable the intended users of the appraisal to understand the report properly; and

c. failing to clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

9. By the conduct described in the Finding of Facts, Respondent violated USPAP SR 2-2(b)(vii,viii,ix,x) by:

a. failing to summarize scope of work used to develop the appraisal;

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

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

d. failing to clearly and conspicuously state all extraordinary assumptions and hypothetical conditions; and state that their use might have affected the assignment results.

10. As a result of the above violations, Respondent 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) and 458.26(4).

#### ORDER

1. The attached Stipulation is accepted.

2. Respondent James D. Dhein is REPRIMANDED.

3. The Certified Residential Appraiser and Licensed Appraiser license issued to James D. Dhein (license number 9-20) is LIMITED as follows:

a. Within 6 months of the date of this Order, Respondent shall successfully complete 30 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. Market Analysis & Highest & Best Use (15 hours); and
- ii. Site Valuation & Cost Approach (15 hours).

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

c. 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 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 from the date of this Order, Respondent shall pay a FORFEITURE in the amount of \$100.00 and COSTS of this matter in the amount of \$876.00.

5. Proof of successful course completion and payment of forfeiture and 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 the forfeiture and costs as ordered or fails to comply with the ordered education as set forth above, Respondent's license

(no. 9-20) 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