

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

MICHAEL G. DONAHUE,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002572

Division of Legal Services and Compliance¹ Case No. 12 APP 069

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

Michael G. Donahue
N1805 Clover Rd.
Lake Geneva, WI 53147

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 Michael G. Donahue (dob June 6, 1968) is licensed in the State of Wisconsin as a Licensed Appraiser, having license number 1771-4, first issued on March 30, 2004 and current through December 14, 2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N1805 Clover Road, Lake Geneva, Wisconsin 53147.

2. On September 12, 2007, Respondent was disciplined by the Board for violating the Uniform Standards of Professional Appraisal Practice (USPAP) Rules and/or Standards

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

Rules (SR). Respondent's license was limited to a specified geographical area and he was prohibited from conducting, supervising or affixing his signature to any appraisal report other than a report concerning a single family residential property until he completed ordered education. Respondent complied with the terms of the order and the limitation was removed from his license on December 5, 2007.

3. On July 10, 2012, Respondent performed an appraisal of property located at W8691 Glacial Drive, Whitewater, Wisconsin. Respondent's appraisal report was dated July 3, 2012. After discovering mistakes, a corrected report was dated July 19, 2013.

4. On or about July 25, 2012, the Department received a complaint alleging that the subject appraisal violated USPAP. Division of Legal Services and Compliance Case Number 12 APP 069 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 SR as follows:

- a. failed to verify or reconcile a 462 square foot gross living area (GLA) difference between Respondent's calculation of subject property and municipal assessor records. (Scope of Work Rule, SR 1-1(c), SR 2-1(a,b).)
- b. incorrectly indicated Comparable Sale 2's GLA as 4,443 square feet by including both above and below grade living area and then made an adjustment for below grade living area that was already included in the above grade GLA. (Scope of Work Rule, SR 1-1(c), SR 2-1(a,b).)
- c. incorrectly indicated and made an adjustment for Comparable Sale 3 having a two-car garage when it actually had a three-car garage similar to the subject property. (Scope of Work Rule, SR 1-1(c), SR 2-1(a,b).)

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 Scope of Work Rule by failing to determine and perform the scope of work necessary to develop credible assignment results.

3. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-1(c) by rendering appraisal services in a careless or negligent manner.

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

- a. failing to clearly and accurately set forth the appraisal in a manner that will not be misleading; and
- b. failing to include sufficient information to enable the intended users of the appraisal to understand the report properly.

5. As a result of the above violations, Respondent has violated Wis. Admin. Code §§ 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 Michael G. Donahue is REPRIMANDED.
3. The Licensed Appraiser license issued to Respondent Michael G. Donahue (license number 1771-4) is LIMITED as follows:
 - a. Within 90 days of the date of this Order, Respondent shall successfully complete 15 hours of education consisting of the following courses, 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. The Dirty Dozen by McKissock (3 hours);
 - ii. Land and Site Valuation by McKissock (7 hours); and
 - iii. Data Verification Methods by Appraisal Institute (5 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 ordered 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, and also may not be used in future attempts to upgrade a credential in Wisconsin.
 - d. Respondent shall not apply for or be granted an appraiser license upgrade during the term of the license limitation.

e. This limitation shall be removed from Respondent's 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 \$250.00 and COSTS of this matter in the amount of \$250.00.

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. 1771-4) 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

8/21/2013
Date