

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

FELIPE J. MALDONADO,
RESPONDENT.

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FINAL DECISION AND ORDER

0003376

Division of Legal Services and Compliance Case Nos. 13 APP 028 and 14 APP 010

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

Felipe J. Maldonado
3201 E. James Dr.
Oak Creek, WI 53154

Wisconsin Real Estate Appraisers Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Felipe J. Maldonado (dob November 22, 1970) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1762-9, first issued on October 13, 2009 and current through December 14, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3201 E. James Dr., Oak Creek, Wisconsin 53154.

2. On August 22, 2012, the Board suspended Respondent for one month and limited Respondent's license to require (1) completion of 105 hours of education and (2) submission of quarterly logs of all appraisals completed for a year, for a total of four quarterly logs, for violating Wis. Admin. Code § RL (now SPS) 86.01(1) and (2) by preparing an appraisal which

failed to comply the Uniform Standards of Professional Appraisal Practice (USPAP) Rules and/or Standards Rules (SR).

3. Pursuant to the Board's August 22, 2012 Order, Respondent submitted quarterly logs on January 4, 2013, April 9, 2013, July 15, 2013 and October 15, 2013.

4. The Department selected three appraisals from Respondent's quarterly logs for review by the Department. All of the appraisals reviewed violated USPAP Rules and/or Standards Rules.

5. Respondent's appraisal of a property located at 15208 67th Street, Kenosha, Wisconsin, dated October 31, 2012, contained the following violations:

- a. Respondent made site, basement size and bedroom count adjustments which were not credible and/or unsupported. [SR 1-1(a,b,c), SR 1-4(a), SR 2-1(a)].
- b. Respondent's statements in the FIRREA/USPAP addendum indicate Respondent does not understand the concept of "Scope of Work, Intended Use, Intended User and Purpose." [Competency Rule, SR 1-1(a,b,c), SR 1-4, SR 1-4(a), SR 2-1(a), SR 2-2(b)(viii)].
- c. Respondent improperly based his opinion of the site value on the 2012 tax assessment. [Competency Rule, SR 1-1(a), SR 1-4(b)(i)].
- d. Respondent's sales comparison reconciliation is flawed. Respondent failed to explain how he selected his value conclusion based on the adjusted prices of the comparable sales. [Competency Rule, SR 1-6(a)].

6. Respondent's appraisal of property located at 1116 W. Blackhawk Drive, Ft. Atkinson, Wisconsin, dated December 18, 2012, contained the following violations:

- a. Respondent incorrectly listed comparable Sale 2's site size and failed to identify that it included an additional parcel. [Scope of Work Rule, SR 1-1(a,b,c), SR 1-4(a), SR 2-1(a), SR 2-2(b)(viii)].
- b. Respondent incorrectly made a \$1,750 adjustment for comparable Sale 2's fireplace, when the subject property had a fireplace. [Scope of Work Rule, SR 1-1(a,b,c), SR 1-4(a), SR 2-1(a)].
- c. Respondent failed to note the difference in construction quality between comparable Sale 2's exterior, which was brick, and the subject property's exterior, which was vinyl, and make an appropriate adjustment. [SR 1-1(a,b,c), SR 1-4(a), SR 2-1(a)].
- d. Respondent failed to inspect the comparable sales and instead relied upon MLS photos of the comparable sales. [Scope of Work Rule, SR 2-1(a)].

- e. Respondent improperly based his opinion of the site value on the 2012 tax assessment. [Competency Rule, SR 1-1(a), SR 1-4(b)(i)].
- f. Respondent's sales comparison reconciliation is flawed. Respondent failed to explain how he selected his value conclusion based on the adjusted prices of the comparable sales. [Competency Rule, SR 1-6(a)].

7. Respondent's appraisal of a property located at 6051 N. Lake Drive, Whitefish Bay, Wisconsin, dated March 26, 2013, contained the following violations:

- a. Respondent failed to adjust for the bathroom count in comparable Sale 1. [SR 1-1(a,b,c), SR 1-4(a), SR 2-1(a)].
- b. Respondent made site adjustments which were not credible. [SR 1-1(a,b,c), SR 1-4(a), SR 2-1(a)].
- c. Respondent improperly referred to the subject condition as "average" after describing a "completely gutted and remodeled kitchen, and half bath." [Competency Rule, SR 1-1(b,c), SR 1-4, SR 2-1(a), SR 2-2(b)(iii)].
- d. Respondent's statements in the FIRREA/USPAP addendum indicate Respondent does not understand the concept of "Scope of Work, Intended Use, Intended User and Purpose." [Competency Rule, SR 1-1(a,b,c), SR 1-4, SR 1-4(a), SR 2-1(a), SR 2-2(b)(viii)].
- e. Respondent improperly based his opinion of the site value on the 2012 tax assessment. [Competency Rule, SR 1-1(a), SR 1-4(b)(i)].
- f. Respondent's sales comparison reconciliation is flawed. Respondent failed to explain how he selected his value conclusion based on the adjusted prices of the comparable sales. [Competency Rule, SR 1-6(a)].

8. In 2014, the Department conducted an audit of certified and licensed appraiser continuing education for the 2011-2013 biennial period (December 15, 2011 to December 14, 2013).

9. On Respondent's 2013 renewal application, Respondent certified that he had completed 28 hours of continuing education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between December 15, 2011 and December 14, 2013.

10. As evidence of his compliance with the continuing education requirements for the 2011-2013 biennial period, Respondent submitted courses completed to satisfy the Board's August 22, 2012 Order. Respondent did not provide proof of completing any additional education that could be counted towards the continuing education requirements for the 2011-2013 biennial period.

11. Pursuant to the Department audit, Respondent was found to be noncompliant with the continuing education requirements for certified and licensed appraisers for the 2011-2013 biennial period, as Respondent did not complete any continuing education for the 2011-2013 biennial period.

12. 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 Competency Rule by failing to be competent to perform the assignment.

4. By the conduct described in the Findings of Fact, Respondent 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 affected 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.

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

6. 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 was necessary for credible assignment results.

7. By the conduct described in the Findings of Fact, 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 was necessary for credible assignment results.

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

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

10. By the conduct described in the Findings of Fact, Respondent violated USPAP 2-2(b)(viii) by failing to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions and conclusions; or explain exclusion of the sales comparison approach, cost approach or income approach.

11. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 458.13 and Wis. Admin. Code § SPS 85.01(1) by failing to complete at least 28 hours of continuing education, including successful completion of the 7-hour national USPAP update course or its equivalent, in the 2011-2013 biennial period.

12. As a result of the violations noted in the Conclusions of Law, Respondent Felipe J. Maldonado has violated Wis. Admin. Code §§ SPS 86.01(1) and (2), and is therefore subject to discipline pursuant to Wis. Stat. § 458.26(3)(a), (b), (c) and (i).

ORDER

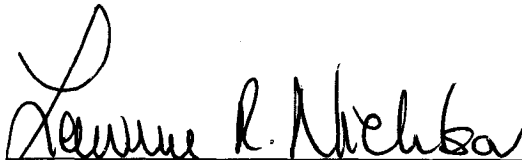
1. The attached Stipulation is accepted.

2. The VOLUNTARY SURRENDER of the Certified Residential Appraiser certificate of licensure and certification of Felipe J. Maldonado (number 1762-9) is hereby ACCEPTED.

3. This surrender constitutes Respondent's permanent relinquishment of his certificate of licensure and certification. The Board will not, at any time in the future, process or otherwise consider an application or attempt at renewal by Respondent of credentials necessary to perform real estate appraisals in the State of Wisconsin.

4. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
A Member of the Board

9/9/2014
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FELIPE J. MALDONADO,
RESPONDENT.

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STIPULATION

0003376

Division of Legal Services and Compliance Case Nos. 13 APP 028 and 14 APP 010

Respondent Felipe J. Maldonado and the Division of Legal Services and Compliance,
Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the
Division of Legal Services and Compliance. Respondent consents to the resolution of this
investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily
and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has
the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by
subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral
arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution,
the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code,
and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has
been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by
the Wisconsin Real Estate Appraisers Board (Board). The parties to the Stipulation consent to
the entry of the attached Final Decision and Order without further notice, pleading, appearance
or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if
adopted in the form as attached.

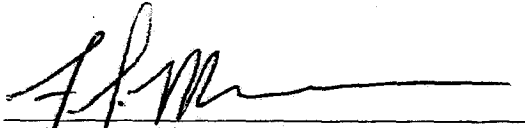
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not
be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Felipe J. Maldonado, Respondent
3201 E. James Dr.
Oak Creek, WI 53154
License No. 1762-9

08/07/2014
Date



Andrea E. Brauer, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

8/7/2014
Date