

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

ANNE M. FOGLE,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004340

Division of Legal Services and Compliance Case Nos. 13 APP 085 and 15 APP 024

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

Anne M. Fogle
N7267 Winnebago Drive
Fond du Lac, WI 54935

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 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 Anne M. Fogle (dob 06/08/1963) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1743-9, first issued on April 30, 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 N7267 Winnebago Drive, Fond du Lac, WI 54935.

13 APP 085

2. On December 7, 2011, Respondent performed an appraisal of property located at 450 Violet Avenue, Hartford, WI 53027.

3. On or about September 13, 2013, 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 (Division) Case Number 13 APP 085 was subsequently opened for investigation.

4. Respondent's appraisal was reviewed by the Division and it was determined that the appraisal and appraisal report violated USPAP Rules and/or Standards Rules (SR) as follows:

- a. Respondent failed to correctly designate the neighborhood boundaries. [Scope of Work Rule, SR 1-1(a,c).]
- b. Respondent failed to report the site dimensions. [Scope of Work Rule, SR 1-1(c), SR 1-2(e)(i).]
- c. Respondent failed to describe the support and analysis for her opinion of the highest and best use of the subject property. [SR 2-2(b)(ix).]
- d. In the Sales Comparison Approach, Respondent failed to provide analysis supporting her lot size adjustments and her workfile does not contain market data in support of the adjustments. [SR 1-1(a,c), SR 1-4(a), Record Keeping Rule Section of the Ethics Rule.]
- e. Respondent selected inappropriate comparable sales, failed to report or reported inaccurate data for the comparable sales, and made inaccurate adjustments based on the erroneous data which affected the opinion of value. [Competency Rule, Scope of Work Rule, SR 1-1(a,c), SR 1-4(a).]
- f. In the Cost Approach, Respondent failed to provide a summary of comparable land sales and did not retain land sales and/or listings in her workfile. [Record Keeping Rule, Competency Rule, SR 1-4(b)(i).]

15 APP 024

5. On February 5, 2015, Respondent performed an appraisal of property located at 4206 Stonegate Drive, Town of Algoma, WI (zip code Oshkosh, WI 54904).

6. On or about April 16, 2015, the Department received a complaint alleging that the subject appraisal violated USPAP. Division Case Number 15 APP 024 was subsequently opened for investigation.

7. Respondent's appraisal was reviewed by the Division and it was determined that the appraisal and appraisal report violated USPAP Rules and/or Standards Rules (SR) as follows:

- a. The neighborhood delineated by Respondent does not contain the subject property and Respondent's determination of present land use percentage is not correct. [Scope of Work Rule, SR 1-1(a,c).]
 - b. Respondent incorrectly reported the subject property's site dimensions and zoning classification. [Scope of Work Rule, SR 1-1(b), SR 1-2(e)(i).]
 - c. Respondent failed to describe the support and rationale for her opinion of highest and best use of the subject property. [SR 2-2(a)(x).]
 - d. In the Sales Comparison Approach, Respondent incorrectly reported the comparable listings, comparable sales and price range of these properties in the defined neighborhood. [SR 1-1(c).]
 - e. In the Sales Comparison Approach, Respondent made incorrect adjustments in applying the price per square foot appraisal technique and failed to make or made inconsistent adjustments with regard to age of the sales. [Competency Rule, SR 1-1(a).]
8. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW¹

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 the Record Keeping Section of the USPAP Ethics Rule by failing to retain in her workfile all other data, information and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other documentation
3. By the conduct described in the Findings of Fact, Respondent violated the USPAP Competency Rule by failing to be competent to perform the assignment.
4. By the conduct described in the Findings of Fact, Respondent violated the USPAP Scope of Work Rule by failing to determine and perform the scope of work necessary to develop credible assignment results.
5. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-1(a,b,c) by:

¹ Unless otherwise noted, the USPAP 2010-2011 language of the Rules and Standards Rules is identical to the USPAP 2014-2015 Rules and Standards Rules.

- 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.

6. By the conduct described in the Findings of Fact, Respondent 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.

7. 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 were available to indicate a value conclusion when a sales comparison approach is necessary for credible assignment results.

8. 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.

9. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-2(b)(ix) [USPAP 2010-2011] by failing to summarize the support and rationale for the opinion of the highest and best use developed by the appraiser.

10. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-2(a)(x) [USPAP 2014-2015] by failing to include in the content of the appraisal report a summary of the support and rationale for her opinion of the highest and best use of the subject property.

11. As a result of the above violations, Respondent Anne M. Fogle 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).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Anne M. Fogle is REPRIMANDED.
3. The Certified Residential Appraiser certificate of licensure and certification issued to Respondent Anne M. Fogle (number 1743-9) is LIMITED as follows:
 - a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete sixty (60) 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 examinations offered for the courses:

- i. National USPAP (15 hours),
- ii. Residential Sales Comparison and Income Approach (30 hours), and
- iii. Residential Site Valuation and Cost Approach (15 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 the ordered education and passage of any examination 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. This limitation shall be removed from Respondent's certification after satisfying the Board or its designee of successful completion of all of the education, including passage of all examinations.

4. Within ninety (90) days of this Order, Respondent Anne M. Fogle shall pay COSTS of this matter in the amount of \$1,821.00.

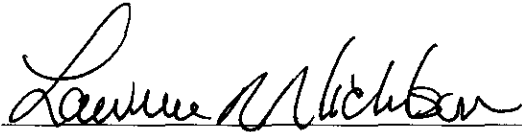
5. Proof of successful course completion, including passage of any examinations, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
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 certificate of licensure and certification. 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 complete the ordered education, including passage of any examinations, or fails to submit payment of the costs as ordered, Respondent's certificate of licensure and certification (number 1743-9) 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 costs, completion of the education, and passage of any course examinations.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:  11/11/2015
A Member of the Board Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANNE M. FOGLE,
RESPONDENT.

STIPULATION

0004340

Division of Legal Services and Compliance Case Nos. 13 APP 085 and 15 APP 024

Respondent Anne M. Fogle and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

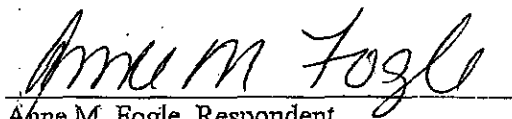
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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.

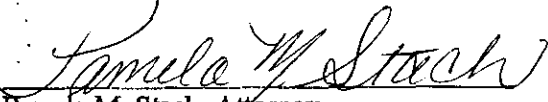
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Anne M. Fogle, Respondent
N7267 Winnebago Dr.
Fond du Lac, WI 54935
Credential no. 1743-9

10/29/15
Date



Pamela M. Stach, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

10/29/15
Date