

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

JOHN R. MAU,
RESPONDENT.

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:
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:
:

FINAL DECISION AND ORDER

0004344

Division of Legal Services and Compliance Case No. 14 APP 029

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

John R. Mau
311 East Ann Street, Suite 1
Kaukauna, WI 54130

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 John R. Mau (dob January 29, 1939) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 683-9, first issued on June 24, 1993 and current through December 14, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 311 East Ann Street, Suite 1, Kaukauna, WI 54130.

2. On February 7, 2014, Respondent performed an appraisal of property located at 8306 County Road W, Town of Morrison, WI 53126.

3. On or about March 26, 2014, 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 Case Number 14 APP 029 was subsequently opened for investigation.

4. 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. Respondent incorrectly reported the Present Land Use, incorrectly identified the characteristics of the delineated neighborhood and failed to provide any commentary as to whether there was any external depreciation due to the subject property's location on a through street. [Scope of Work Rule, SR 1-1(c), SR 1-2(a,b), SR 2-2(a)(iii).]

b. Respondent incorrectly reported the subject property's site dimensions and specific zoning classification. [Scope of Work Rule, SR 1-1(b,c), SR 1-2(e)(i), SR 2-1(a,b), SR 2-2(a)(iii).]

c. Respondent failed to describe the support and rationale for his opinion of highest and best use of the subject property. [SR 2-2(a)(x).]

d. Respondent incorrectly reported the MLS numbers for four of the five comparables, failed to identify and select more appropriate comparables that were in close proximity to the subject property, failed to provide an adequate analysis of the comparables which were used, and failed to state how his opinion of value was developed. [Competency Rule, SR 1-4(a), SR 1-6(a), SR 2-2(a)(viii).]

e. In the Cost Approach, Respondent used assessed value for his opinion of site value which is not an acceptable appraisal method for determining market value of the site and failed to provide sufficient information in the report for the user to replicate cost figures and calculations. [Competency Rule, Scope of Work Rule, SR 1-1(a,b), SR 1-4(b)(i,ii), SR 2-1(a,b).]

f. Respondent's workfile does not contain data to support the reported market conditions in the neighborhood and does not contain supporting data for his opinion of value in the Cost Approach. [Record Keeping Rule, SR 1-4(b)(ii).]

5. Respondent has submitted recently completed appraisals which reflect corrective changes to his practice since the date of the subject appraisal.

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 the USPAP Record Keeping Rule by failing to retain in his workfile all 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:

- a. failing to gather and analyze information about those assignment elements that are necessary to properly identify the appraisal problem to be solved and,
- b. failing to perform the research and analyses that are necessary to develop credible assignment results.

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

- a. failing to be aware of, understand, and correctly employ those recognized methods and techniques that were 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 affected the credibility of those results.

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

- a. failing to identify the client and other intended users; and

b. failing to identify the intended use of the appraiser's opinions and conclusions.

7. 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.

8. 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 was necessary for credible assignment results.

9. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-4(b)(i) and (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 were available to estimate the cost new of the improvements when a cost approach was necessary for credible assignment results.

10. 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.

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

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

b. include sufficient information in the appraisal report to enable the intended users of the appraisal to understand the report properly.

12. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-2(a)(iii),(viii) and(x) by:

a. failing to summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, 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 include in the content of the appraisal report a summary of the support and rationale for the appraiser's opinion of highest and best use.

13. As a result of the above violations, Respondent John R. Mau 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 John R. Mau is REPRIMANDED.
3. The Certified Residential Appraiser certificate of licensure and certification issued to Respondent John R. Mau (number 683-9) is LIMITED as follows:
 - a. Within one hundred twenty (120) days of the date of this Order, Respondent shall successfully complete thirty-seven (37) hours of education consisting of the following courses offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any examinations offered for the courses:
 - i. USPAP (15 hours),
 - ii. Residential Market Analysis and Highest and Best Use (15 hours),
and
 - iii. Overview of Real Estate Appraisal Principles (7 hours).
 - b. All courses may be taken in person or online.
 - c. Respondent shall submit proof of successful completion of the ordered education and passage of any examinations in the form of verification from the institution providing the education and examinations 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 credential upgrade during the term of the credential limitation.
 - e. This limitation shall be removed from Respondent's credential after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education, including the passage of any examinations.
4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$491.00.


5. Proof of successful course completion, passage of 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 timely submit payment of the costs as ordered, or fails to comply with the ordered education, including the passage of any examinations as set forth above, Respondent's certificate of licensure (no. 683-9) 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 and completion of the education, including the passage of any examinations.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
A Member of the Board

11/11/2015
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOHN R. MAU,
RESPONDENT.

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:
:

STIPULATION

0004344

Division of Legal Services and Compliance Case No. 14 APP 029

Respondent John R. Mau 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. Respondent is represented by Attorney Peyton Engel.


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 or Respondent's attorney, 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.



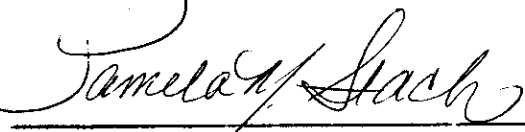
John R. Mau, Respondent
311 E. Ann St., Ste. 1
Kaukauna, WI 54130
Credential no. 683-9

Date Nov 3, 2015



Peyton Lingel, Attorney for Respondent
Hurley Burish & Stanton, S.C.
33 E. Main St., Ste. 400
P.O. Box 1528
Madison, WI 53701

Date Nov 3, 2015



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

Date November 3, 2015