

## 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

LEE A. HIETPAS,  
RESPONDENT.

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FINAL DECISION AND ORDER

**0004529**

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Division of Legal Services and Compliance Case No. 14 APP 038

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

Lee A. Hietpas  
2046 Charles Street  
De Pere, WI 54115

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 Lee A. Hietpas (DOB August 15, 1962) is certified in the State of Wisconsin as a Certified General Appraiser, having certificate of licensure and certification number 1257-10, first issued on December 19, 2003 and current through December 14, 2015. Lee A. Hietpas' most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2046 Charles Street, De Pere, Wisconsin 54115.

2. On May 23, 2012, Respondent performed an appraisal of a commercial property located at 2605-2615 South Oneida Street, Village of Ashwaubenon, Wisconsin. The subject property consisted of a 60% vacant retail shopping center with restaurant space, a leased advertising billboard, and a leased freestanding restaurant.

3. On or about May 22, 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 038 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 noted but did not analyze a sale of the subject property, which occurred within three years prior to the effective date of the appraisal. [SR 1-5(b), SR 2-1(b).]
- b. Respondent analyzed both the as-is and as-stabilized values of the subject property. In the appraisal report, the effective date of the as-stabilized value is the same as the inspection date. Respondent did not set forth a projected date of stabilization although the property was not stabilized as of the effective date of the appraisal. [Competency Rule, SR 1-2(d), SR 2-1(c), SR 2-2(b)(vi,x).]
- c. Respondent stated any third party information gathered in the appraisal report was based on an extraordinary assumption but did not explain what the extraordinary assumption was or that its use might have affected the assignment results. [SR 2-2(b)(x).]
- d. In the Cost Approach:
  - i. Respondent incorrectly stated that she analyzed the as-stabilized value of the subject property by using a Cost Approach when the Cost Approach provides an "as-complete" value only. [Competency Rule.]
  - ii. Respondent analyzed appropriate comparable land sales but her value conclusions are not supported by the results of her analysis. [Competency Rule, SR 1-1(a) SR 1-4(a).]
  - iii. A mathematical error on page 58 resulted in a \$326,700 mistake in Respondent's estimate of the subject property's site value. [SR 1-1(b).]
  - iv. Respondent incorrectly used unit costs for a "Good Class C" Regional Shopping Center when the correct classification is "Average Class C" Regional Shopping Center. [Competency Rule.]
  - v. Respondent incorrectly completed the Cost Approach utilizing Marshall & Swift cost estimates by failing to properly apply adjustments and multipliers for items such as climate, sprinklers, and perimeter; omitting costs to construct an income-generating billboard which is present on the subject property's site; failing to support

depreciation estimates; and failing to logically compute site improvements expense. [Competency Rule, SR 1-4(b)(ii,iii).]

e. In the Income Approach:

- i. Respondent failed to comply with Appendix C of the Interagency Appraisal & Evaluation Guidelines, which requires an appraiser to analyze and report appropriate deductions and discounts for partially leased buildings. [Competency Rule, SR 1-1(a,b,c).]
- ii. Although the property interest appraised is stated to be leased fee, Respondent did not analyze comparable rental data to determine whether the leases are at market value. [Competency Rule, SR 1-1(a), SR 1-4(c)(i).]
- iii. Respondent used the direct capitalization method instead of correctly completing a discounted cash flow analysis, although the subject property's income was not stabilized as of the effective date of the appraisal. [Competency Rule, SR 1-4(c)(iv).]
- iv. Respondent did not support the expense ratio and capitalization rate she utilized in the Income Approach. [SR 2-1(b).]
- v. Respondent did not analyze how a \$75,000 ground lease on the subject property impacted the subject property's value. [Competency Rule, SR 1-4(d), SR 2-1(b).]
- vi. Respondent valued the billboard located on the subject property without providing support for the projected expense ratio or the capitalization rate. [Competency Rule, SR 1-4(c)(ii,iii), SR 2-1(b).]
- vii. The capitalization rate developed by Respondent for the "as-is" value conclusion is not credible because it is lower than the capitalization rate she developed in the "as stabilized" analysis. [Competency Rule, SR 1-1(a,b,c), SR 1-4(c)(ii,iii), SR 2-1(b).]

f. In the Sales Comparison Approach:

- i. Respondent cited three restaurant sales and concluded a unit value between the mean and median of the three sales without providing additional support or analysis. [SR 1-4, SR 2-1(b).]
- ii. After separately valuing individual sections of the subject property by construction type, Respondent added the resulting value conclusions but did not analyze whether there was any effect on value of the assemblage. [SR 1-4(e).]

- g. Respondent did not reconcile the data available and analyzed within the approaches to value used and did not reconcile the applicability and relevance of the approaches to value used. [SR 1-6(a,b).]

5. 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, Lee A. Hietpas violated the USPAP Competency Rule by failing to be competent to perform the assignment.
3. By the conduct described in the Findings of Fact, Lee A. Hietpas 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 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.
4. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 1-2(d) by failing to identify the effective date of her opinions and conclusions.
5. By the conduct described in the Findings of Fact, Lee A. Hietpas 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, Lee A. Hietpas violated USPAP SR 1-4(a) by failing to analyze such comparable sales data as were available to indicate a value conclusion.
7. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 1-4(b)(ii) and (iii) by:
  - a. failing to analyze such comparable cost data as were available to estimate the cost new of the improvements; and

- b. failing to analyze such comparable data as were available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

8. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 1-4(c)(i) through (iv) by, when an Income Approach was necessary for credible assignment results:

- a. failing to analyze such comparable rental data as were available and/or the potential earnings capacity of the property to estimate the gross income potential of the property;
- b. failing to analyze such comparable operating expense data as were available to estimate the operating expenses of the property;
- c. failing to analyze such comparable data as were available to estimate rates of capitalization and/or rates of discount; and
- d. failing to base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.

9. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 1-4(d) by, when developing an opinion of the value of a leased fee estate or leasehold estate, failing to analyze the effect on value, if any, of the terms and conditions of the lease(s).

10. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 1-4(e) by, when analyzing the assemblage of the various estates or component parts of a property, failing to analyze the effect on value, if any, of the assemblage and failing to refrain from valuing the whole solely by adding together the individual values of the various estates or component parts.

11. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 1-5(b) by, when the value opinion to be developed was market value, failing to analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

12. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 1-6(a) and (b) by:

- a. failing to reconcile the quality and quantity of data available and analyzed within the approaches used; and
- b. failing to reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).

13. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 2-1(b) and (c) by:

- a. failing to include in the appraisal report sufficient information to enable the intended users of the appraisal to understand the report properly; and
- b. failing to clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

14. By the conduct described in the Findings of Fact, Lee A. Hietpas violated USPAP SR 2-2(b)(vi) and (x) by:

- a. failing to state the effective date of the appraisal and the date of the report; and
- b. failing to clearly and conspicuously state all extraordinary assumptions and hypothetical conditions and state that their use might have affected the assignment results.

15. As a result of the above violations, Lee A. Hietpas 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 Lee A. Hietpas is REPRIMANDED.
3. The Certified General Appraiser certificate of licensure and certification issued to Lee A. Hietpas (number 1257-10) is LIMITED as follows:
  - a. Within 180 days from the date of this Order, Respondent shall successfully complete 105 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 exam offered for the courses:
    - i. General Appraiser Income Approach Part I (30 hours);
    - ii. General Appraiser Income Approach Part II (30 hours);
    - iii. General Appraiser Site Valuation and Cost Approach (30 hours); and
    - iv. USPAP (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 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 certificate of licensure and certification after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.

4. The Certified General Appraiser certificate of licensure and certification issued to Lee A. Hietpas (number 1257-10) is further LIMITED as follows:

- a. Respondent shall not perform any appraisals of multi-tenant retail commercial properties.
- b. Respondent shall not supervise any unlicensed individuals in the performance of appraisals.
- c. Respondent shall not sign any appraisals as a supervisor of any licensed appraisers.
- d. This limitation shall be removed from Respondent's certificate of licensure and certification when the limitation outlined in paragraph 3 above is removed as specified in paragraph 3.d. above.

5. Within 90 days from the date of this Order, Lee A. Hietpas shall pay COSTS of this matter in the amount of \$1,500.

6. Requests for course approval, proof of successful course completion 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:

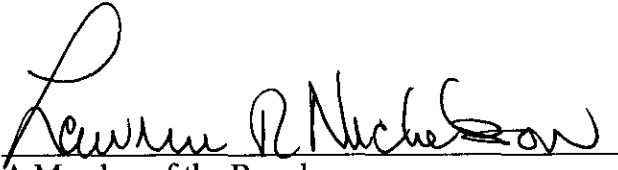
Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

7. In the event Respondent fails to timely submit payment of the costs as ordered or fails to comply with the ordered education as set forth above, Respondent's certificate of licensure and certification (number 1257-10), or Respondent's right to renew her certificate of licensure and certification, 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.



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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:   
A Member of the Board

2/10/2016  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

LEE A. HIETPAS,  
RESPONDENT.

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STIPULATION

**0004529**

Division of Legal Services and Compliance Case No. 14 APP 038

Respondent Lee A. Hietpas 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.

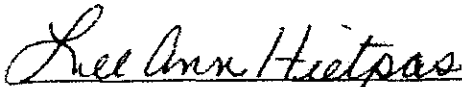
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

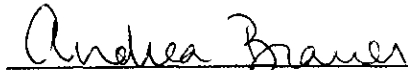
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Lee A. Hietpas, Respondent  
2046 Charles St.  
De Pere, WI 54115  
Credential no. 1257-10

12-15-15  
Date



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

12-17-15  
Date