

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID E. HOLZHAUER,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

0004531

Division of Legal Services and Compliance Case Nos. 14 APP 008 and 15 APP 016

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

David E. Holzhauer
N77 W22184 Wooded Hills Dr.
Sussex, WI 53089

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 David E. Holzhauer (DOB 09/06/1956) is certified by the State of Wisconsin as a Certified General Appraiser, having certificate of licensure and certification number 319-10, first issued on 11/24/1992 and current through 12/14/2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N77 W22184 Wooded Hills Drive, Sussex, Wisconsin 53089.

14 APP 008

2. On 09/13/2013, Respondent performed an appraisal of property located at 9415 West Forest Home Avenue, Hales Corners, Wisconsin 53150.

3. On or about 02/04/2014, 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 (DLSC) Case Number 14 APP 008 was subsequently opened for investigation.

4. Respondent's appraisal was reviewed by DLSC and it was determined that the appraisal and appraisal report violated the USPAP Rules and/or Standards Rules (SR) (2012-2013) as follows:

a. Respondent failed to retain supporting documentation relating to rent comparables, operating expenses, sales comparables, and cash flow information for 2011 and 2013 in his workfile. [Record Keeping Rule.]

b. Respondent failed to gather current comparable rental data and failed to identify the sources of expense data in addition to the subject property's management expenses. [Scope of Work Rule.]

c. Respondent incorrectly reported the price per square foot of the comparable sales and inconsistently reported the appraised value of the subject property. [SR 1-1(c).]

d. Respondent failed to provide support and rationale for his application of a qualitative comparison to the comparable sales. [SR 1-4(a).]

e. Respondent failed to provide adequate support for his estimate of accrued depreciation in the cost approach. [SR 1-4(b)(iii).]

f. Respondent failed to analyze comparable operating expense data and comparable capitalization data. [SR 1-4(c).]

g. Respondent failed to provide adequate explanation for his reconciliation of the divergent values for the income and sales comparison approaches. [SR 1-6(a,b).]

h. Respondent created a report which is not understandable by the intended users due to his failure to provide adequate income and expense information, documentation and analysis of the comparable sales, adequate reconciliation of the Income and Sales Comparison Approaches and sufficient reasoning and reconciliation of data. [SR 2-1(b).]

15 APP 016

5. In March 2015, Respondent performed an appraisal of property located at 13975 West Cleveland Avenue, New Berlin, Wisconsin 53151.

6. On or about March 23, 2015, the Department received a complaint alleging that the subject appraisal violated USPAP. DLSC Case Number 15 APP 016 was subsequently opened for investigation.

7. Respondent's appraisal was reviewed by DLSC and it was determined that the appraisal and appraisal report violated the USPAP Rules and/or SR (2014-2015) as follows:

- a. Respondent failed to properly analyze the sales data for Comparable Sale #1 in the Sales Comparison Approach. [Scope of Work Rule, SR 1-1(b), SR 1-4(a).]
- b. Respondent made an inaccurate and inconsistent adjustment for location with regard to Comparable Sale #5 in the Sales Comparison Approach. [SR 1-1(c).]

8. 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 USPAP¹ Record Keeping Rule by failing to include all data, information, and documentation necessary to support his 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 Scope of Work Rule by failing to include the research and analyses that are necessary to develop credible assignment results.

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

- a. committing a substantial error of omission or commission that significantly affected an appraisal; and
- b. 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.

5. 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.

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

¹ Unless otherwise noted, the USPAP 2012-2013 language of the Standards Rule is identical to the USPAP 2014-2015 Standards Rule.

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

8. By the conduct described in the Findings of Fact, Respondent 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).

9. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-1(b) by failing to include in the appraisal report sufficient information to enable the intended users of the appraisal to understand the report properly.

10. As a result of the above violations, Respondent David E. Holzhauer 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 David E. Holzhauer is REPRIMANDED.
3. The Certified General Appraiser certificate of licensure and certification issued to David E. Holzhauer (number 319-10) is LIMITED as follows:
 - a. Within one hundred twenty (120) days of the date of this Order, Respondent shall successfully complete fifty-two (52) 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. USPAP (15 hours);
 - ii. Analyzing Operating Expenses (7 hours); and
 - iii. General Appraiser Sales Comparison (30 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. Within ninety (90) days from the date of this Order, David E. Holzhauer shall pay COSTS of this matter in the amount of \$1458.00.
5. Requests for course approval, proof of successful course completion and 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. 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 (no. 319-10) or Respondent's right to renew his 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, completion of the education and passage of the examination(s).

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:

Lewman R. Nicholson
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

DAVID E. HOLZHAUER,
RESPONDENT.

STIPULATION

0004531

Division of Legal Services and Compliance Case Nos. 14 APP 008 and 15 APP 016

Respondent David E. Holzhauser 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.

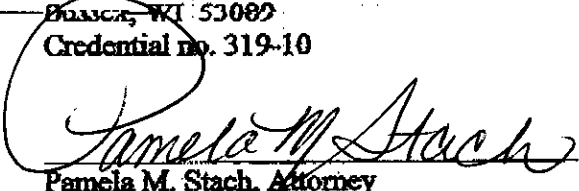
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



David E. Holzhauer, Respondent
N77 W22184 Wooded Hills Dr.
Dancer, WI 53089
Credential no. 319-10

1-27-16
Date



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

1-28-16
Date