

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

DAVID W. IHLER,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004532

Division of Legal Services and Compliance Case No. 14 APP 006

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

David W. Ihler
W305N6546 Beaver View Road
Hartland, WI 53029

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 W. Ihler (dob October 29, 1969) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1749-9, first issued on July 30, 2009 and current through December 14, 2015. David W. Ihler's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W305N6546 Beaver View Road, Hartland, WI 53029.
2. On October 21, 2013, Respondent performed an appraisal of property located at W326N7074 Clearwater Drive, Hartland, WI 53029.

3. On or about January 24, 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 006 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 did not identify how much lake frontage the subject property has or provide additional information about the lake on which it fronts. [SR 1-2(e)(i).]
- b. Respondent did not summarize the support or rationale for his opinion of the subject property's highest and best use. [SR 2-2(b)(ix).]
- c. In the Improvement Section of the appraisal report, Respondent failed to identify that the subject property has a walk-out basement and failed to include a bonus room in his basement square footage calculation. [Competency Rule.]
- d. Respondent failed to explain how he arrived at his opinion that the subject property conforms to the neighborhood in bedroom utility and also failed to explain how the market supports this opinion. [Scope of Work Rule, SR 1-2(e)(i), SR 2-1(a,b).]
- e. In the Sales Comparison Approach, Respondent failed to list the amount of water frontage each sale had, failed to make adjustments for the number of fireplaces and for a comparable sale's boat house, and improperly based location adjustments on the assessed value of the comparable sales utilized. [Competency Rule, Scope of Work Rule, SR 1-1(a,c), SR 1-2(e)(i), SR 2-1(a,b).]
- f. In the Cost Approach, Respondent stated his opinion of site value "was determined through the Wisconsin Regional Metro MLS / FLEX MLS – Tax Records / Assessor's Office" but failed to include any data to support his conclusions so that it is not clear how this opinion was developed. [Scope of Work Rule, Record Keeping Rule, SR 2-1(b).]
- g. Respondent failed to explain why he excluded the Cost Approach when the subject property was a five-year-old home. [SR 2-2(b)(viii).]

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, David W. Ihler violated the USPAP Competency Rule by failing to be competent to perform the assignment.

3. By the conduct described in the Findings of Fact, David W. Ihler violated the USPAP Scope of Work Rule by failing to gather and analyze information about those assignment elements that are necessary to properly identify the appraisal problem to be solved.

4. By the conduct described in the Findings of Fact, David W. Ihler violated the USPAP Record Keeping Rule by failing to include 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.

5. By the conduct described in the Findings of Fact, David W. Ihler violated USPAP SR 1-1(a) and (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, and
- b. committing a substantial error of omission or commission that significantly affected an appraisal.

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

- a. failing to clearly and accurately set forth the appraisal in a manner that will not be misleading, and
- b. failing to include in the appraisal report sufficient information to enable the intended users of the appraisal to understand the report properly.

8. By the conduct described in the Findings of Fact, David W. Ihler violated USPAP SR 2-2(b)(viii) by failing to explain the exclusion of the Cost Approach.

9. By the conduct described in the Findings of Fact, David W. Ihler violated USPAP SR 2-2(b)(ix) by failing to summarize the support and rationale for an opinion of highest and best use.

10. As a result of the above violations, David W. Ihler 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

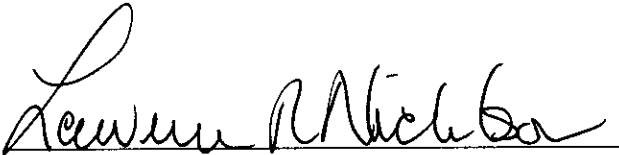
1. The attached Stipulation is accepted.
2. Respondent David W. Ihler is REPRIMANDED.
3. The Certified Residential Appraiser certificate of licensure and certification issued to David W. Ihler (number 1749-9) is LIMITED as follows:
 - a. Within 150 days from the date of this Order, Respondent shall successfully complete 82 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. Qualitative Analysis (30 hours),
 - ii. Basic Appraisal Principles (30 hours),
 - iii. USPAP (15 hours), and
 - iv. ANSI, Home Measurement & the Power of Price-Per-Square-Foot (7 hours).
 - b. The courses 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 90 days from the date of this Order, David W. Ihler shall pay COSTS of this matter in the amount of \$815.25.
5. 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

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 as set forth above, Respondent's certificate of licensure and certification (no. 1749-9) 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.

7. 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

DAVID W. IHLER,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004532

Division of Legal Services and Compliance Case No. 14 APP 006

Respondent David W. Ihler 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.

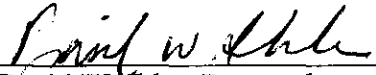
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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 W. Ihler, Respondent
W305N6546 Beaver View Road
Hartland, WI 53029
Credential no. 1749-9

Date



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

11/25/15

Date