

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 :
: FINAL DECISION AND ORDER
JOSHUA L. POSTHUMA, :
RESPONDENT. :

00047 00

Division of Legal Services and Compliance Case No. 14 APP 058

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

Joshua L. Posthuma
125 Lake Court
Cedar Grove, WI 53013

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 Joshua L. Posthuma (DOB May 31, 1984) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1751-9, first issued on August 28, 2009, and current through December 14, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 125 Lake Court, Cedar Grove, WI 53013.

2. On February 13, 2013, Respondent was disciplined by the Board for violations of the Uniform Standards of Professional Appraisal Practice (USPAP) as a result of an appraisal he performed in August 2011. The USPAP Rules and/or Standard Rules (SR) violated included, but were not limited to, SR 1-1(b), SR 1-4(a), SR 1-1(e)(i), and SR 1-3(a). The Respondent was

reprimanded and his certificate was limited to require completion of 52 hours of education. Respondent was further ordered to pay costs in the amount of \$1,040.00.

3. On June 3, 2014, Respondent performed an appraisal of property located at 1102 N. Benjamin Street, Port Washington, WI 53074.

4. On or about October 13, 2014, the Department received a complaint alleging that the subject appraisal violated USPAP. Division of Legal Services and Compliance Case Number 14 APP 058 was subsequently opened for investigation.

5. 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 SR as follows:

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

b. Respondent failed to report that the subject property was adjacent to a nursing home and commercial buildings and failed to provide commentary as to why these external influences would have no effect on value. [Scope of Work Rule, Competency Rule, SR 1-4, SR 2-1(b).]

c. In the Sales Comparison Approach, Respondent omitted relevant sales from his analysis to support his opinion that the subject was not affected by external depreciation. [Scope of Work Rule, SR 1-4(a), SR 2-1(b).]

d. In the Sales Comparison Approach, Respondent utilized estimated square footage of the below grade unfinished and finished areas for the comparable sales when assessor data was readily available and Respondent failed to disclose that the reported square footage was estimated. [Scope of Work Rule, SR 1-4(a), SR 2-1(b).]

e. In the Cost Approach, Respondent failed to provide a summary of comparable land sales or listings in support of his opinion of site value. [Competency Rule, SR 1-4(b)(i).]

f. Respondent utilized an outdated MLS photograph from a prior expired listing of Comparable sale #3 rather than a current photograph which shows changes to the exterior. [Scope of Work Rule, SR 2-1(a).]

g. Respondent's workfile does not contain data in support of his opinion of market conditions in the neighborhood, his opinion of site value in the Cost Approach, and the 1004MC form. [Record Keeping Rule.]

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 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 gather and analyze information about those assignment elements necessary to properly identify the appraisal problem to be solved.

5. 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.

6. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 1-4 by failing to collect, verify, and analyze all information necessary for credible assignment results.

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 are 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 is necessary for credible assignment results.

9. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-1(a) by failing to clearly and accurately set forth the appraisal in a manner that will not be misleading.

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

11. By the conduct described in the Findings of Fact, Respondent violated USPAP SR 2-2(a)(x) by failing to summarize the support and rationale for his opinion of the highest and best use of the subject property.

12. As a result of the above violations, Respondent Joshua L. Posthuma 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 Joshua L. Posthuma is REPRIMANDED.
3. The Certified Residential Appraiser certificate of licensure and certification issued to Respondent Joshua L. Posthuma (number 1751-9) is LIMITED as follows:
 - a. Within one hundred twenty (120) 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. USPAP (15 hours),
 - ii. Advanced Residential Applications and Case Studies/Part One (15 hours), and
 - iii. Residential Sales Comparison and Income Approach (30 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 of the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,356.00.


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. 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 and certification (no. 1751-9) or Respondent's right to renew his certificate, 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:  5/5/2016
A Member of the Board 2 Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOSHUA L. POSTHUMA,
RESPONDENT.

:
:
:
:
:

STIPULATION

00047 00

Division of Legal Services and Compliance Case No. 14 APP 058

Respondent Joshua L. Posthuma 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 Mario Mendoza.

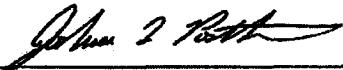
4. Respondent agrees to the adoption of the attached Final Decision and Order by
the Wisconsin Real Estate Appraisers Board (Board). The parties to the Stipulation consent to
the entry of the attached Final Decision and Order without further notice, pleading, appearance
or consent of the parties. Respondent 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.

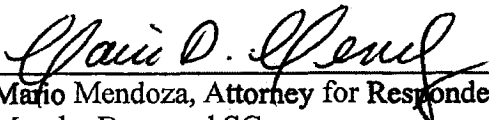
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Joshua L. Posthuma, Respondent
125 Lake Court
Cedar Grove, WI 53013
Credential no. 1751-9

02/22/2016

Date



Mario Mendoza, Attorney for Respondent
Murphy Desmond SC
33 E. Main St., Ste. 500
Madison, WI 53703

2-22-2016

Date



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

2.23.2016

Date