

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

JEANNA I. FISCHBACH,
RESPONDENT.

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:
:
:
:

FINAL DECISION AND ORDER

0004849

Division of Legal Services and Compliance Case No. 15 APP 014

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

Jeanna I. Fischbach
55 Locust Lane
Montello, WI 53949

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 Jeanna I. Fischbach (DOB October 27, 1966) is certified by the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1746-9, first issued on June 16, 2009 and current through December 14, 2017. Jeanna I. Fischbach's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 55 Locust Lane, Montello, Wisconsin 53949.

2. On October 7, 2013, Respondent performed an appraisal of a residential property located at N3640 Marl Lake Road, Wautoma, Wisconsin.

3. On or about March 4, 2015, 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 15 APP 014 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's work file does not reference or include data to support and replicate the cost figures and does not contain data to support Respondent's opinion of site value in the Cost Approach. [Record Keeping Rule.]
- b. Respondent improperly delineated the subject property's neighborhood and incorrectly reported the characteristics and present land use for the delineated neighborhood. [Scope of Work Rule, SR 1-1(c), SR 1-2(e).]
- c. Respondent failed to describe the support and rationale for her opinion of the highest and best use of the subject property. [SR 2-2(b)(ix).]
- d. Respondent failed to provide adequate information in describing lake frontage and lake access to allow the intended user to properly understand the effect on market value of the property. [SR 1-1(c), SR 2-1(b).]
- e. Respondent incorrectly reported the features of the subject property, including, failed to report the existence of an attic and scuttle access to the attic from the exterior of the home and incorrectly reported the heating and fuel type for the subject property. [SR 1-1(c).]
- f. In the Sales Comparison Approach, Respondent selected inappropriate comparable sales, incorrectly identified the location of Comparable Sale #5 (Active Listing), and referenced as support for her opinion of value, a Comparable Sale #6 (Active Listing) which did not exist. [Ethics Rule, Competency Rule, Scope of Work Rule, SR 1-1(a,b,c), SR 1-4(a), SR 2-1(a).]

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, Respondent Jeanna I. Fischbach violated the USPAP Record Keeping Rule by failing to retain in her work file all data, information and documentation necessary to support her 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 Jeanna I. Fischbach 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.

4. By the conduct described in the Findings of Fact, Respondent Jeanna I. Fischbach violated the USPAP Scope of Work Rule by failing to include the research and analyses that are necessary to develop credible assignment results.

5. By the conduct described in the Findings of Fact, Respondent Jeanna I. Fischbach violated the USPAP Ethics Rule by communicating a report that was known by her to be misleading or fraudulent.

6. By the conduct described in the Findings of Fact, Respondent Jeanna I. Fischbach violated the USPAP Competency Rule by failing to be competent to perform the assignment.

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

8. By the conduct described in the Findings of Fact, Respondent Jeanna I. Fischbach violated USPAP SR 1-2(e) 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.

9. By the conduct described in the Findings of Fact, Respondent Jeanna I. Fischbach violated USPAP SR 1-4(a) by failing to analyze such comparable sales data as were available to indicate a value conclusion.

10. By the conduct described in the Findings of Fact, Respondent Jeanna I. Fischbach violated USPAP SR 2-1(a,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.

11. By the conduct described in the Findings of Fact, Respondent Jeanna I. Fischbach violated USPAP SR 2-2(b)(ix) by failing to summarize the support and rationale for her opinion of highest and best use.

12. As a result of the above violations, Jeanna I. Fischbach 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 Jeanna I. Fischbach is REPRIMANDED.
3. The Certified Residential Appraiser certificate of licensure and certification issued to Jeanna I. Fischbach (number 1746-9) is LIMITED as follows:
 - a. Within one hundred fifty (150) days from the date of this Order, Respondent shall successfully complete forty-eight (48) hours of education consisting of the following courses offered by a provider preapproved by the Board's monitoring liaison, including taking and passing any examinations offered for the courses:
 - i. USPAP (15 hours);
 - ii. Work File: Your Best Defense Against an Offense (5 hours);
 - iii. The Cost Approach (7 hours);
 - iv. Residential Report Writing (7 hours);
 - v. Sales Comparison Approach (7 hours); and
 - vi. Even Odder-More Oddball Appraisals (7 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 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. 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 and passage of any examinations.

4. Respondent Jeanna I. Fischbach shall pay COSTS in the amount of \$1245 pursuant to the following schedule:

<u>Payment Date</u>	<u>Amount</u>
August 30, 2016	\$311.25
November 30, 2016	\$311.25
February 28, 2017	\$311.25
May 30, 2017	\$311.25

5. Requests for course approval, proof of successful course completion, 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, including passage of any examinations, as set forth above, Respondent's certificate of licensure and certification (number 1746-9), 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, completion of the education and passage of any course examinations.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: Larry Nicholson
A Member of the Board

8/4/16
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JEANNA I. FISCHBACH,
RESPONDENT.

STIPULATION

0004849

Division of Legal Services and Compliance Case No. 15 APP 014

Respondent Jeanna I. Fischbach 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.

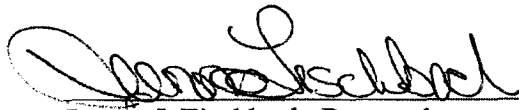
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

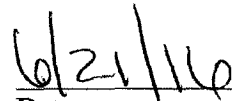
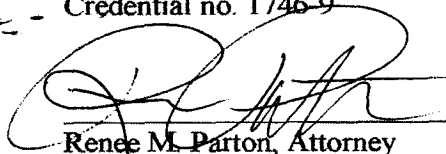
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

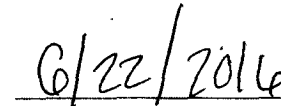
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Jeanna I. Fischbach, Respondent
55 Locust Lane
Montello, WI 53949
Credential no. 1746-9


Date

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


Date