

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

GERALD J. LONG,
RESPONDENT.

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FINAL DECISION AND ORDER

0005348

Division of Legal Services and Compliance Case Nos. 16 APP 003 & 16 APP 041

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

Gerald J. Long
N7067 River Drive
Shawano, WI 54166

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 Gerald J. Long (DOB 06/05/1956) is certified by the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1204-9, first issued on November 6, 2000 and current through December 14, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N7067 River Drive, Shawano, Wisconsin 54166.

2. On July 12, 2006, the Board, in lieu of a reprimanded, ordered Respondent to complete Residential Report Writing and Case Studies and Residential Sales Comparison and Income Approach courses for violating the 2004-2005 Uniform Standards of Professional

16 APP 003

3. On December 16, 2015, Respondent completed an appraisal of property located at 12266 South Plummer Lake Lane, Lac du Flambeau, Wisconsin 54538.

4. On or about January 6, 2016, the Department received a complaint alleging that the subject appraisal violated USPAP. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 16 APP 003 for investigation.

5. Respondent's appraisal was reviewed by DLSC and it was determined that the appraisal and appraisal report violated USPAP Rules and/or SR as follows:

a. In the Neighborhood section, Respondent expanded the neighborhood boundaries to encompass his comparable selections and failed to correctly describe all of the characteristics and uses for the delineated neighborhood. [Scope of Work Rule, SR 1-1(c), SR 1-2(e)(i).]

b. In the Site section, Respondent incorrectly reported the subject property's Specific Zoning Classification. [SR 1-1(c).]

c. In the Site section, Respondent failed to summarize the support and rationale for his opinion that the subject property's highest and best use was as improved when his opinion of value for the subject property's site was \$200,000 and his opinion of value for the subject property "as is" was \$140,000. [Competency Rule, SR 1-1(c), SR 2-2(a)(x).]

d. In the Site section, Respondent failed to correctly report that the subject property was located in a Flood Hazard Area and provided contradicting information to the intended user of the report. [Scope of Work Rule, SR 1-1(c), SR 2-1(a,b).]

e. In the Sales Comparison Approach section, Respondent misreported the data for comparable properties located in the subject's neighborhood by reporting the data for all single-family properties in the delineated neighborhood and not only the comparable properties. [Competency Rule, Scope of Work Rule, SR 1-1(c).]

f. In the Cost Approach section, Respondent failed to provide a summary of the sales data used to develop his opinion of site value in the report and did not have in his workfile the data or the analysis to support his opinion of value. Respondent indicated to DLSC that the site value came from county tax data which is not an appropriate appraisal method. [Record Keeping Rule, Scope of Work Rule, SR 1-1(c), SR 1-4(b)(i), SR 2-1(a,b).]

g. In the Cost Approach section, Respondent failed to retain the source of his cost data in his workfile [Record Keeping Rule, Scope of Work Rule, SR 1-1(c), SR 2-1(b).]

16 APP 041

6. On July 18, 2016, Respondent completed an appraisal of property located at 4516 Elm Street, Laona, Wisconsin 54541.

7. On or about July 28, 2016, the Department received a complaint alleging that the subject appraisal violated USPAP. DLSC subsequently opened Case Number 16 APP 041 for investigation.

8. Respondent's appraisal was reviewed by DLSC and it was determined that the appraisal and appraisal report violated USPAP Rules and/or SR as follows:

a. In the Neighborhood section, Respondent expanded the neighborhood boundaries to encompass his comparable selections and failed to correctly describe all of the characteristics and uses for the delineated neighborhood. [Scope of Work Rule, SR 1-1(c), SR 1-2(e)(i).]

b. In the Site section, Respondent incorrectly reported the subject property's Specific Zoning Classification and Zoning Description. The subject property has no zoning. Respondent failed to summarize the support and rationale for his opinion of the subject property's highest and best use. [SR 1-1(c), SR 2-2(a)(x).]

c. In the Improvement section, Respondent reported the physical locations of the well, septic tank, and drain field; however, Respondent did not inspect the exterior of the subject property or walk the site. Respondent failed to correctly report what sources he used for physical characteristics of the subject property. [Scope of Work Rule, SR 1-1(c), SR 2-1(a).]

d. In the Improvement section, Respondent failed to correctly report the subject property had a finished room in the basement. In the Sales Comparison Approach section, Respondent adjusted for finished rooms in the basement in two comparable sales. [SR 1-1(b,c).]

e. In the Sales Comparison Approach section, Respondent misreported the data for comparable properties located in the subject's neighborhood by reporting the data for all single-family properties in the delineated neighborhood and not only the comparable properties. [Competency Rule, Scope of Work, SR 1-1(c).]

f. In the Sales Comparison Approach section, Respondent failed to adjust Comparable Sale Nos. 4 and 5 (active listings) for a typical market list price to sales price ratio. Respondent failed to adjust for Comparable Sale No. 4's lack of basement. [SR 1-1(c)].

g. In the Cost Approach section, Respondent failed to provide a summary of the data used to develop his opinion of site value in the report and did not have in his workfile the data or the analysis to support his opinion of value. Respondent developed his site value using tax records which is not an appropriate appraisal method. [Record Keeping Rule, Scope of Work Rule, SR 1-1(c), SR 1-4(b)(i), SR 2-1(a,b).]

h. In the addendum of the report, Respondent stated he provided original photos taken by the Respondent; however, all photos of the comparable properties were taken from the Multiple Listing Service which was contrary to the client's guidelines. [Scope of Work Rule, SR 1-1(c), SR 2-1(a,b).]

9. 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, Gerald J. Long violated the USPAP¹ Competency Rule by failing to be competent to perform the assignment.

3. By the conduct described in the Findings of Fact, Gerald J. Long violated the USPAP Scope of Work Rule by failing to properly identify the problem to be solved in order to determine the appropriate scope of work and 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, Gerald J. Long violated the USPAP Record Keeping Rule by failing to include in his workfile all other data, information, and documentation necessary to support his opinions and conclusions and to show compliance with USPAP.

5. By the conduct described in the Findings of Fact, Gerald J. Long violated USPAP SR 1-1(b) and (c) by:

a. committing a substantial error of omission or commission that significantly affects 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 affects the credibility of those results.

¹ Unless otherwise noted, the language of the 2014-2015 Edition USPAP is the same as the language of the 2016-2017 Edition USPAP.

6. By the conduct described in the Findings of Fact, Gerald J. Long 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, Gerald J. Long violated USPAP SR 1-4(b)(i) by failing to develop an opinion of site value by an appropriate appraisal method or technique, when the cost approach was necessary for a credible assignment result.

8. By the conduct described in the Findings of Fact, Gerald J. Long violated USPAP SR 2-1(a) and (b) by:

a. failing to clearly and accurately set forth the appraisal in a manner that was not misleading; and

b. failing to include in his appraisal report sufficient information to enable the intended users of the appraisal to understand the report properly.

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

10. As a result of the above USPAP violations, Gerald J. Long violated Wis. Admin. Code § SPS 86.01(1) and (2).

11. As a result of the above violations and conduct, Respondent 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 Gerald J. Long's Certified Residential Appraiser certificate of licensure and certification (no. 1204-9) is hereby SUSPENDED for 5 business days, beginning 10 calendar days from the date of this Order.

3. The Certified Residential Appraiser certificate of licensure and certification issued to Gerald J. Long (no. 1204-9) is LIMITED as follows:

a. Within 60 days from the date of this Order, Respondent shall successfully complete 60 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(s) offered for the courses:

i. USPAP (15 hours),

ii. Basic Appraisal Procedures (30 hours), and

iii. Residential Appraiser Site Valuation and Cost Approach
(15 hours).

b. The USPAP (15 hours) course shall be taken online; however, all other courses listed above may be taken online or in person in a classroom setting.

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.

4. Within 90 days from the date of this Order, Gerald J. Long shall pay COSTS of this matter in the amount of \$1,345.

5. Requests for pre-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

6. In the event Respondent violates any term of this Order, Respondent's certificate of licensure and certification (no. 1204-9), or Respondent's right to renew his certificate of licensure and certification, may, in the discretion of the Board or its designee, be further SUSPENDED, without additional notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: Lawrence R. Nielsen
A Member of the Board

6/20/2017
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

GERALD J. LONG,
RESPONDENT.

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STIPULATION

0005348

Division of Legal Services and Compliance Case Nos. 16 APP 003 & 16 APP 041

Respondent Gerald J. Long 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 Stephen J. Menard.

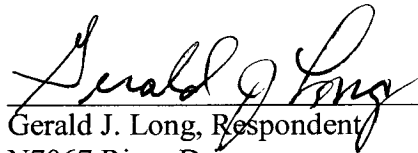
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Real Estate Appraisers Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent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

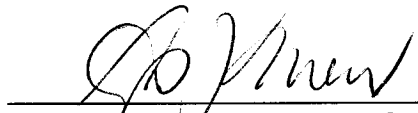
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



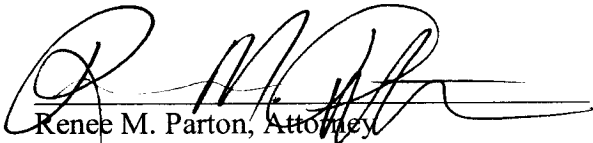
Gerald J. Long, Respondent
N7067 River Drive
Shawano, WI 54166
Credential no. 1204-9

6/7/17
Date



Stephen J. Menard, Attorney for Respondent
Menard Law Office
117 N. Main St.
P.O. Box 265
Shawano, WI 54166-0265

6/7/17
Date



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

6/9/2017
Date