

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE CERTIFICATE OF :
: FINAL DECISION AND ORDER
DAN W. BERRY, :
: FOR REMEDIAL EDUCATION
LICENSEE. :

0005628

Division of Legal Services and Compliance Case No. 17 APP 009

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

Dan W. Berry
917 Woodside Ave.
Ripon, WI 54971

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 Wisconsin 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. Licensee Dan W. Berry (DOB 02/27/1947) is certified by the State of Wisconsin as a Certified General Appraiser, having certificate of licensure and certification number 172-10, first issued on January 14, 1992 and current through December 14, 2019. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 917 Woodside Avenue, Ripon, Wisconsin 54971.

2. On February 9, 2017, Licensee completed an appraisal of property located at 450 Koro Road, Ripon, Wisconsin 54971.

3. On or about March 1, 2017, 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 17 APP 009 was subsequently opened for investigation.

4. Licensee's appraisal was reviewed by the Division of Legal Services and Compliance (DLSC) and found to be deficient in the following ways:

- a. In the Site section, Licensee failed to report the site dimensions when the information was readily available and contained in his workfile. Licensee reported the subject site has public gas; however, the subject site does not have public gas. [Scope of Work Rule, Standards Rule (SR) 2-1(b).]
- b. In the Improvement section, Licensee failed to provide market support for his opinion that the subject property's square footage is common or typical of the neighborhood. Licensee failed to provide adequate information for the intended user of the report to understand Licensee's reporting of exposure time. [SR 1-2(e)(i), SR 2-1(b).]
- c. In the Sales Comparison Approach section, Licensee failed to employ a recognized method or technique to develop adjustments for differences in site value. Licensee failed to correctly adjust for site value on Comparable no. 7. [SR 1-1(a), SR 2-1(a).]

5. In resolution of this matter, Licensee consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. §§ 227.44(5) and 458.26.

ORDER

1. The attached Stipulation is accepted.
2. Within 180 days of the date of this Order, Dan W. Berry shall, at his own expense, take and successfully complete 25 hours of education as follows:
 - a. USPAP (15 hours),
 - b. Supporting Your Adjustments (3 hours), and
 - c. Complex Properties: The Odd Side of Appraisal (7 hours).
 - d. Each course attended in satisfaction of this Order must be offered by a provider pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the course(s) from the Board or its designee. Licensee must take and pass any exam offered for the course(s).

e. Licensee shall submit proof of successful completion of the 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 Department and may not be used in any future attempt to upgrade a credential.

3. Within 90 days from the date of this Order, Licensee shall pay COSTS of this matter in the amount of \$1,373.


4. Requests for course 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 Licensee 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

5. This Order does not constitute discipline.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
A Member of the Wisconsin Real
Estate Appraisers Board

2/13/2018
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE CERTIFICATE OF :
DAN W. BERRY, :
LICENSEE. :

STIPULATION

0005628

Division of Legal Services and Compliance Case No. 17 APP 009

Licensee Dan W. Berry 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. Licensee consents to the resolution of this investigation by Stipulation.

2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee'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 appellate rights afforded to Licensee under any law and provision of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Licensee agrees to the adoption of the attached Final Decision and Order for Remedial Education 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. Licensee 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 Licensee, 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. Licensee 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 Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Dan W. Berry, Licensee
917 Woodside Avenue
Ripon, WI 54971
Credential No. 172-10

1/29/2018
Date



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

1/30/2018
Date