

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

ANDREW S. GUMINA,
LICENSEE.

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FINAL DECISION AND ORDER
FOR REMEDIAL EDUCATION

0006153

Division of Legal Services and Compliance Case No. 17 APP 021

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

Andrew S. Gumina
5354 Hunt Club Road
Racine, WI 53402-2337

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 Andrew S. Gumina (DOB 9/25/1970) is certified by the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1756-9, first issued on September 16, 2009 and current through December 14, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 5354 Hunt Club Road, Racine, Wisconsin 53402-2337].

2. On August 18, 2016, Respondent performed an appraisal of property located at W6683 East Shoreland Road, Elkhart Lake, Wisconsin. Respondent's appraisal report, effectively dated August 9, 2016, provided a value of \$2,067,000 for the property.

3. On or about March 30, 2017, the Department received a complaint alleging that the subject appraisal and two other appraisals violated the Uniform Standards of Professional Appraisal Practice (USPAP). Division of Legal Services and Compliance (DLSC) Case Number 17 APP 021 was subsequently opened for investigation.

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

a. In the Subject section, Respondent failed to report the subject property was listed for sale within the prior 12 months. [Scope of Work Rule, SR 1-4, SR 2-1(a).]

b. In the Neighborhood section, Respondent erred in reporting the present land uses found within the subject's delineated neighborhood. Instead, Respondent reported the present land uses found surrounding Elkhart Lake. [SR 2-1(b).]

c. In the Improvement section, Respondent misreported that the three-car garage was detached. [SR 2-1(b).]

d. In the Sales Comparison Approach section, Comparable 5 is not a comparable property as Respondent applied a \$1,324,075 adjustment to this comparable, therefore, using this property as a comparable would be misleading. Further, Respondent made a \$255,000 adjustment to Comparable 6 for not having waterfrontage; however, Comparable 6 has 314 feet of waterfrontage on Crystal Lake. [SR 1-4(a), SR 2-1(a),(b).]

e. In the Cost Approach section, Respondent failed to report his summary of support for his opinion of site value for the subject property. Respondent's workfile did not include a copy of the Marshall and Swift Residential handbook, cost worksheets or any other data to support his opinions and conclusions of site value. [Scope of Work Rule, Record Keeping Rule.]

5. Licensee agrees that failure to submit proof of successful completion of the ordered education as set forth below shall constitute conduct which reflects adversely on his fitness to practice as a real estate appraiser as set forth in Wis. Admin. Code § SPS 86.01(13).

6. 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 ninety (90) days of the date of this Order, Andrew S. Gumina shall, at his own expense, take and successfully complete 45 hours of education as follows:

- a. USPAP (15 hours) (must be taken online);
- b. Quantitative Analysis (30 hours) (may be taken in person in a classroom setting or online).
- c. 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).
- d. 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.

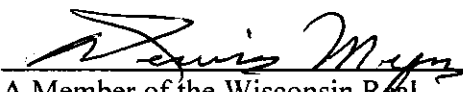
3. Requests for course approval and proof of successful course completion shall be sent by Licensee to the Department Monitor at the address below:

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

4. This Order does not constitute discipline.
5. 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

Date

5-7-19

RECEIVED

APR 15 2019

DEPARTMENT OF SAFETY & PROFESSIONAL SERVICES
DIVISION OF LEGAL SERVICES & COMPLIANCE

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE
CERTIFICATE OF

ANDREW S. GUMINA,
RESPONDENT.

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STIPULATION

0006153

Division of Legal Services and Compliance Case No. 17 APP 021

Licensee Andrew S. Gumina 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 applicable rights afforded to Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions 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 For Remedial Education 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.

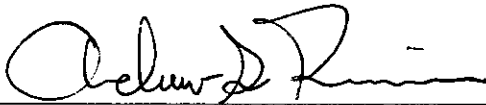
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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 For Remedial Education.

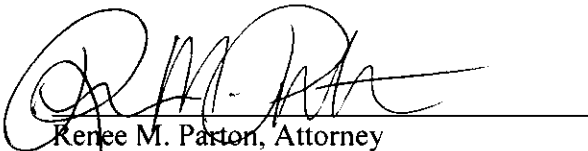
7. Licensee is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order For Remedial Education is a public record and will be published in accordance with standard Department procedure.

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 For Remedial Education.



Andrew S. Gumina, Respondent
5354 Hunt Club Road
Racine, WI 53402-2337
Credential no. 1756-9

4/4/19
Date



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

4/16/2019
Date