

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

ROBERT W. NIEDERDORFER,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0006324**

Division of Legal Services and Compliance Case No. 17 APP 052

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

Robert W. Niederdorfer
809 Estate Drive
Fond du Lac, WI 54935

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 Robert W. Niederdorfer (DOB 6/20/1965) is certified by the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1185-9, first issued on April 28, 2000, and current through December 14, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 809 Estate Drive, Fond du Lac, Wisconsin 54935.

2. On November 13, 2018, the Board reprimanded Respondent for violating Wis. Admin. Code §§ SPS 4.09(2) and 86.01(12) and (13). (Order No. 0005955).

3. On April 18, 2017, Respondent performed an appraisal of property located at N5119 Sandstone Avenue, Ripon, Wisconsin 54971.

4. On or about December 20, 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 (DLSC) Case Number 17 APP 052 was subsequently opened 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 Standards Rules (SR) as follows:

a. In the Site section, Respondent:

- i. reported the view as "N;mixed" without further explanation and failed to provide commentary regarding the subject property's shared lake access. [SR 2-1(b).]
- ii. failed to perform adequate research to determine whether the subject property had water frontage. [Scope of Work Rule, SR 1-1(b), SR 1-2(e)(i), SR 2-1(a,b).]
- iii. reported the Site Dimensions as "2.03." [SR 2-1(b).]
- iv. incorrectly reported the Specific Zoning Classification and Zoning Description for the subject property. [Record Keeping Rule, SR 1-2(e)(i), SR 2-1(a,b).]
- v. incorrectly reported there were no adverse site conditions or external factors despite the fact the legal description of the subject property references an easement. [SR 2-1(a,b).]
- vi. failed to summarize the support and rationale for his opinion of the subject property's highest and best use. [SR 2-2(a)(x).]

b. In the Sales Comparison Approach section, Respondent failed to report and misreported certain features of the comparable sales and failed to support his adjustments to the comparable sales in his report and his workfile. [SR 1-1(c), SR 2-1(a,b), 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, Robert W. Niederdorfer 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.

3. By the conduct described in the Findings of Fact, Robert W. Niederdorfer violated the USPAP Record Keeping Rule by failing to include in his workfile all data, information, and documentation necessary to support his opinions and conclusions and to show compliance with USPAP.

4. By the conduct described in the Findings of Fact, Robert W. Niederdorfer 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.

5. By the conduct described in the Findings of Fact, Robert W. Niederdorfer 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.

6. By the conduct described in the Findings of Fact, Robert W. Niederdorfer 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.

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

8. As a result of the above violations, Robert W. Niederdorfer 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 Robert W. Niederdorfer is REPRIMANDED.

3. The Certified Residential Appraiser certificate of licensure and certification issued to Robert W. Niederdorfer (number 1185-9) is LIMITED as follows:

a. Within 90 days from the date of this Order, Respondent shall successfully complete 34 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) (must be taken online);
- ii. Advanced Residential Application and Case Studies (15 hours) (may be taken in person in a classroom setting or online); and
- iii. Workfile Documentation for Appraisers (4 hours) (may be taken in person in a classroom setting or online).

b. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution(s) 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.

c. 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.

4. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,267.00.

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

You may also submit this information online via DSPS' Monitoring Case Management System at:
<https://app.wi.gov/DSPSMonitoring>.

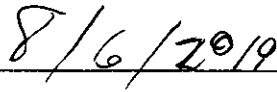
6. In the event Respondent violates any term of this Order, Respondent's certificate of licensure and certification (number 1185-9), or Respondent's right to renew his certificate of licensure and certification may, in the discretion of the Board or its designee, be SUSPENDED,

without further notice or hearing, until Respondent has complied with 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: 
A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

RECEIVED

MAY 28 2019

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT W. NIEDERDORFER,
RESPONDENT.

DEPT OF SAFETY & PROFESSIONAL SERVICES
DIVISION OF LEGAL SERVICES & COMPLIANCE
STIPULATION

ORDER 0006324

Division of Legal Services and Compliance Case No. 17 APP 052

Respondent Robert W. Niederdorfer 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.

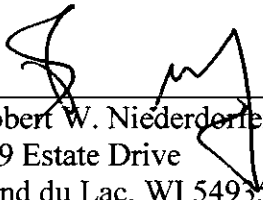
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.



Robert W. Niederderfer, Respondent
809 Estate Drive
Fond du Lac, WI 54935
Credential no. 1185-9

5/17/19

Date



Sarah E. Norberg, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

5.28.19

Date