

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

DONALD E. LINDQUIST,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0006545

Division of Legal Services and Compliance Case No. 18 APP 027

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

Donald E. Lindquist
310 W. Elm Street
Thorp, WI 54771

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 Donald E. Lindquist (DOB 01/28/1952) is certified by the State of Wisconsin as a certified general appraiser, having certificate of licensure and certification number 19-10, first issued on August 16, 1991 and current through December 14, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 310 West Elm Street, Thorp, Wisconsin 54771.

2. On August 12, 2009, the Board reprimanded Respondent and limited his license so as to prohibit him from performing any appraisal assignments on self-storage commercial properties for one year and require him to complete 16 hours of education. Respondent violated

Uniform Standards of Professional Appraisal Practice (USPAP) Standard Rules (SR) 1-1(a,b,c), 1-2(e), 1-2(f), 1-4(a,b(ii-iii),c,h), 2-1, 2-2(b)(iii,vii,viii,ix).

3. On October 11, 2017, Respondent completed an appraisal of property located at 4445 Theatre Road, Sparta, Wisconsin 54656.

4. On or about April 30, 2018, the Department received a complaint alleging that the subject appraisal violated USPAP. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 18 APP 027 for investigation.

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

a. In the Subject Data section, Respondent erroneously includes a canopy as equivalent to heated finished building area. [SR 1-2(e), 2-1(a,b).]

b. In the Valuation section, Respondent developed the Cost Approach. Respondent's narrative lacks specificity regarding Respondent's calculation of replacement costs for site improvements and for the building improvements. Respondent did not have any supporting documentation in his workfile. Additionally, Respondent did not adequately explain the depreciation estimates of 5 year effective age estimates on a building constructed 21 years previously. Further, Respondent chose comparable properties that did not support Respondent's opinion of value and was 150% higher than the comparable properties used, without providing substantial explanation. Respondent did not address or make any adjustment for the fact that Comparable Sale 2 was sold with an additional 17 acres of vacant land. [SR 1-1(a,b), 1-4(a,b), 2-1(a,b).]

c. In the Valuation section, Respondent developed the Income Approach. Respondent did not adequately explain the use of an equity dividend rate of 4% which is abnormally low for a hotel valuation or provide comparable data for the capitalization rate built up. Additionally, Respondent did not adequately explain why he choose to use "price per square foot" as opposed to "price per room" which is typical in a hotel valuation. Further, Respondent's report improperly estimates "additional income" without explanation as to why the number differs from what was submitted in his workfile. [SR 1-1(a,b), 1-4(c), 2-1(a,b).]

d. In the Valuation section, Respondent included an estimated value for the extensive personal property used in the hotel operation but did not have an explanation for how this value was reached or any support in his workfile. Further, Respondent did not address the impact of the Best Western Franchise on the marketability and value of the subject property. [SR 1-4(g).]

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, Donald E. Lindquist violated USPAP SR 1-1(a,b) by:

- a. failing to be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal, and
- b. committing a substantial error of omission or commission that significantly affected an appraisal.

3. By the conduct described in the Findings of Fact, Donald E. Lindquist 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.

4. By the conduct described in the Findings of Fact, Donald E. Lindquist violated USPAP SR 1-4 (a,b,c,g) by:

- a. failing to analyze available comparable sales data to indicate a value conclusion, when the sales comparison approach was necessary for a credible assignment result.
- b. failing to develop an opinion of site value by an appropriate appraisal method or technique; failing to analyze such comparable cost data as are available to estimate the cost of the improvements; and failing to analyze such comparable data as is available to estimate the difference between the cost new and the present worth of the improvements, when the cost approach is necessary for credible assignment results.
- c. failing to analyze such comparable rental data as is available and/or potential earnings capacity of the property to estimate the gross income potential of the property; failing to analyze such comparable operating expense data as is available to estimate the operating expenses of the property; failing to analyze such comparable data as is available to estimate rates of capitalization and/or rates of discount; and failing to base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.
- d. failing to analyze the effect on value of such non-real property items, when personal property, trade fixtures, or intangible items are included in the appraisal.

5. By the conduct described in the Findings of Fact, Donald E. Lindquist 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 his appraisal report sufficient information to enable the intended users of the appraisal to understand the report properly.

6. As a result of the above violations, Donald E. Lindquist 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 Donald E. Lindquist's Certified General Appraiser certificate of licensure and certification (no. 19-10) is hereby SUSPENDED for fifteen (15) calendar days, beginning December 13, 2019 and ending December 27, 2019.
3. The Certified General Appraiser certificate of licensure and certification issued to Donald E. Lindquist (no. 19-10) is LIMITED as follows:
 - a. Respondent shall not accept or complete hotel valuation appraisals until the corrective education below has been completed.
 - b. Respondent shall successfully complete fifty (50) 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 offered for the courses:
 - i. National USPAP course (15 hours) (must be taken online),
 - ii. The Dirty Dozen (3 hours),
 - iii. Complex Properties: The Odd Side of Appraisal (7 hours),
 - iv. Appraisal of Owner-Occupied Commercial Properties (7 hours),
 - v. Advanced Hotel Appraising – Full Service Hotels (7 hours),
 - vi. Small Hotel/Motel Valuation (7 hours), and
 - vii. Appraiser Self Protection: Documentation and Record Keeping (4 hours).
 - c. With the exception of the National USPAP Course which must be taken online, the courses listed above may be taken in person in a classroom setting or online.

d. 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.

e. 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 ninety (90) days from the date of this Order, Donald E. Lindquist shall pay COSTS of this matter in the amount of \$2,367.

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 19-10), 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 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

11-15-19
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DONALD E. LINDQUIST.
RESPONDENT.

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STIPULATION

ORDER 0006545

Division of Legal Services and Compliance Case No. 18 APP 027

Respondent Donald E. Lindquist 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 Thomas Terwilliger.

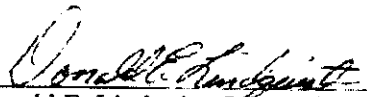
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Real Estate Appraisers Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent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

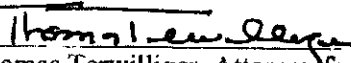
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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


Donald E. Lindquist, Respondent
310 W. Elm Street
Thorp, WI 54771
Credential No. 19-10

10/22/2019
Date


Thomas Terwilliger, Attorney for Respondent
Terwilliger Law Firm
327 N. 17th Ave., Suite 301
Wausau, WI 54401

10/22/19
Date


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

10.23.2019
Date