

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 :
MIKE A. MCBRAYER, : FINAL DECISION AND ORDER
LICENSEE. : FOR REMEDIAL EDUCATION
: **ORDER 0007499**

Division of Legal Services and Compliance Case No. 20 APP 011

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

Mike A. McBrayer
Amery, WI 54001

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 Mike A. McBrayer (Birth Year 1961) is certified by the State of Wisconsin as a certified residential appraiser, having certificate of licensure and certification number 1753-9, first issued on September 8, 2009 and current through December 14, 2021. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Amery, Wisconsin 54001.
2. On March 31, 2020, the Department received a complaint alleging that Licensee performed an inadequate appraisal. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 20 APP 011 for investigation.
3. On November 25, 2019, Licensee performed an appraisal of a property located at 148 20th Street, Town of Clear Lake, Wisconsin 54005-3714.
4. Licensee's appraisal was reviewed by the DLSC and was found to be deficient in the following ways:

- a. In the Site section, Licensee did not report the site dimensions which were readily available on the county GIS website. Licensee reported assessment codes instead of the specific zoning classifications. Licensee also failed to report the subject falls within Shoreland Zoning and has wetland designation which could limit the use or development of the property. [Uniform Standards for Professional Appraisal Practice (USPAP) Scope of Work Rule, Standard Rule (SR) 1-2(e)(i)].
- b. Licensee did not summarize the support and rationale for his opinion of Highest and Best Use. [SR 2-2(a)(x)].
- c. In the Improvement section, Licensee failed to indicate the subject property had a basement outside entrance and exit and reflect this attribute in the Sale Comparison Analysis. [SR 1-1(c), SR 2-1(a)].
- d. In the Cost Approach section, Licensee did not provide a summary of the data or appraisal method used to develop Licensee's opinion of site value. Licensee reported in his reconciliation that the Cost Approach is an unreliable indicator of value but did not indicate why it is unreliable. [Scope of Work Rule, SR 2-2(a)(viii)].
- e. Licensee added a comment, "I certify that, to the best of my knowledge and belief, I have not performed any prior services regarding the subject property, as an appraiser, or in any other capacity, within the three-year period immediately proceeding acceptance of this assignment." But this statement did not include a signed certification. [SR 2-3].
- f. In the Sales Comparison Approach section, Licensee adjusted the comparable sales for site size, above grade living area, heating/cooling, garage and fireplace features but Licensee failed to include support for these adjustments in his report and workfile or references to where the support could be found. [Record Keeping Rule, SR 2-1(b)].
- g. Licensee used MLS photos for comparable properties but did not include his own photograph to be in compliance with FHA requirements. Licensee utilized internal and external inspections as verification source which is not acceptable with FHA requirements. [Scope of Work Rule, SR 2-1(a)].

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 90 days of the date of this Order, Licensee shall, at his own expense, take and successfully complete 26 hours of education as follows:
 - a. National USPAP course (15 hours) (must be taken online).
 - b. Appraiser Self-Protection: Documentation and Record Keeping (4 hours).
 - c. The FHA Handbook 4000.1 (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(s) 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. 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

You may also submit this information online via DSPS' Monitoring Case Management System at: <https://dspsmonitoring.wi.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: Carl N. Chur-
A Member of the Board

08/03/2021
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE CERTIFICATE OF	:	
	:	STIPULATION
MIKE A. MCBRAYER,	:	
LICENSEE.	:	ORDER 0007499

Division of Legal Services and Compliance Case No. 20 APP 011

Licensee Mike A. McBrayer and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

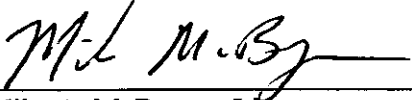
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Licensee consents to the resolution of this investigation by Stipulation.
2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the 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.



Mike A. McBrayer, Licensee
Amery, WI 54001
Credential No. 1753-9

5/10/21

Date



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

05/18/2021

Date