

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
MATTHEW J. FITZSIMONS, : FOR REMEDIAL EDUCATION
LICENSEE. : **ORDER 000780 4**

Division of Legal Services and Compliance Case No. 20 APP 017

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

Matthew J. Fitzsimons
Campbellsport, WI 53010

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 Matthew J. Fitzsimons (Birth Year 1970) is certified by the State of Wisconsin as a certified residential appraiser, having certificate of licensure and certification number 1606-9, first issued on November 6, 2007 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 Campbellsport, Wisconsin 53010.
2. On May 19, 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 017 for investigation.
3. On April 18, 2019, Licensee performed an appraisal of a property located at W292 Lang Road, Town of Ixonia, Wisconsin 53036.
4. Licensee's appraisal was reviewed by the DLSC and was found to be deficient in the following ways:

- a. In the Neighborhood section of the report, Licensee indicated the subject's neighborhood as "rural", but the delineated neighborhood of approximately 105 square miles included the City of Watertown and the City of Oconomowoc which are urban areas. [Uniform Standards for Professional Appraisal Practice (USPAP) Scope of Work Rule-Problem Identification: assignment condition].
- b. In the Site section of the report, Licensee indicated the Highest and Best Use for the subject property was as improved, but the condition of the subject property's improvements may warrant demolition of existing structure and building a new home. Further, Licensee did not provide analysis or evidence in workfile that he analyzed the property to see if dividing the property into separate buildable parcels was a Highest and Best Use option. [Record Keeping Rule, Standard Rule (SR) 1-3(b)].
- c. Licensee did not include a sale of similar condition in his appraisal, failed to adequately search the market, and failed to analyze prior sales to support his adjustments. Licensee failed to note prior sale of Comparable #2 in his report. [Scope of Work Rule, SR 1-1(a), SR 1-4(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 30 hours of education as follows:
 - a. National USPAP course (15 hours) (must be taken online).
 - b. Residential Market Analysis and Highest & Best Use (15 hours).
 - 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(s) 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.

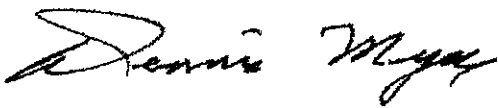
3. Requests for course approval and proof of successful course completion shall be sent by Licensee to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

You may also submit this information online via DSPS' Monitoring Case Management System at: <https://dpsmonitoring.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: 
A Member of the Board

2/1/2022

Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE CERTIFICATE OF :
: STIPULATION
MATTHEW J. FITZSIMONS, :
LICENSEE. :

ORDER 0007804

Division of Legal Services and Compliance Case No. 20 APP 017

Licensee Matthew J. Fitzsimons 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.


Matthew J. Fitzsimons, Licensee
Campbellsport, WI 53010
Credential No. 1606-9

10-29-2021
Date


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

11/9/2021
Date