

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

RICHARD ANTHONY HEARN,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0008568

Division of Legal Services and Compliance Case No. 21 APP 006

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

Richard Anthony Hearn
Delafield, WI 53018

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 Richard Anthony Hearn (Birth Year 1960) is certified by the State of Wisconsin as a certified residential appraiser, having certificate of licensure and certification number 1405-9, first issued on January 28, 2005, and current through December 14, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Delafield, Wisconsin 53018.

2. On January 21, 2021, the Department received a complaint alleging that Respondent provided an inadequate appraisal. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 21 APP 006 for investigation.

3. On July 9, 2020, Respondent performed an appraisal of a property located in 303 W. Brown Street, Waupun, Wisconsin 53963.

4. Respondent's appraisal was reviewed by DLSC and was found to be deficient in the following ways:

a. In the Subject section of the report, Respondent correctly indicated the visual inspection of the subject property was limited to the exterior. However, he used standard pre-printed scope of work, limiting conditions and certification statements at the conclusion of the report certifying that both the interior and exterior of the property were personally inspected, instead of modifying those statements to reflect that only the exterior of the subject property was visually inspected. [Uniform Standards of Professional Appraisal Practice (USPAP) Standard Rules (SR) 1-1(c), SR 2-1(a) and (b)]

b. In the Site section of the report, Respondent marked the zoning compliance box as legal, when it should have been marked as legal nonconforming (grandfathered use). [SR 1-1(c), SR 2-1(a)]

c. In the Site section of the report, Respondent indicates that the highest and best use of the subject was its present use, but failed to provide support and rationale for that opinion in his report. [SR 1-3(b), SR 2-2(a)(xii)]

d. In the Improvement section of the report, Respondent did not indicate whether the subject property had any of the listed amenities, including a fireplace, patio, deck, or porch, nor did he report that these amenities were not present. The property does in fact have a patio and porch, which can be verified by viewing the photos of the subject property included in the appraisal report. Although Respondent claims he did not include these amenities in his report due to their limited use as incidental ingress and egress points, he does not indicate this on the report nor is support for this opinion included in the work file. [SR 1-2(e)(i)]

e. In the Sales Comparison Approach section of the report, Respondent reported a comparable sales range found in the subject neighborhood that omitted relevant sales without providing support for his reasoning in the report or the workfile. [Record Keeping Rule, SR 2-1(a)]

f. In the Sales Comparison Approach section of the report, Respondent adjusted comparable sales for differences in lot sizes, age, bedroom/bathroom utility, above grade living area, basement finish, and garage space. The workfile lacks support for the adjustments made. [Record Keeping Rule]

g. In the Cost Approach section of the report, Respondent reported his opinion of value of the site and stated that his opinion was based on land sales and additional information contained in his files. However, the Fannie Mae 1025 form requires the appraiser to provide a summary of the sales data used or data for other methods used to estimate site value. Respondent did not provide in the appraisal report a

summary of the sales or other data used to arrive at his opinion of site value. [Scope of Work Rule, SR 2-1(b) and 2-2 (a)(viii)]

h. In the Cost Approach section, Respondent did not indicate whether the estimate was the cost of reproduction or the cost of replacement as new. Respondent also did not report the source of the cost data used to develop the cost approach, or the quality rating and effective date of the cost data, nor is this information included in his workfile. [Record Keeping Rule, Scope of Work Rule, SR 2-1(b)]

i. Respondent failed to follow FHA guidelines and used MLS photos in the appraisal report as opposed to using original photos of the subject property taken during the site inspection. Respondent admits he did not take and provide original photos, despite his awareness of the FHA requirement. He also refused requests from the complainant to update the appraisal report by providing original photos, on the grounds that he claimed to lack the time needed to revisit the subject property. [Ethics Rule, Scope of Work Rule]

5. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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, Respondent violated the Ethics Rule by failing to promote and preserve the public trust inherent in appraisal practice through observing the highest standards of professional ethics, and by performing an assignment in a grossly negligent manner.

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

4. By the conduct described in the Findings of Fact, Respondent violated the Scope of Work Rule by failing to gather and analyze information about the assignment elements that are necessary to properly identify the appraisal problem to be solved.

5. By the conduct described in the Findings of Fact, Respondent violated SR 1-1(c) by 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 affected the credibility of those results.

6. By the conduct described in the Findings of Fact, Respondent violated 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.

7. By the conduct described in the Findings of Fact, Respondent violated SR 1-3(b) by failing to develop an opinion of the highest and best use of the subject property based on relevant legal, physical, and economic factors.

8. By the conduct described in the Findings of Fact, Respondent violated SR 2-1(a) by failing to clearly and accurately set forth the appraisal in a manner that will not be misleading.

9. By the conduct described in the Findings of Fact, Respondent violated SR 2-1(b) by failing to include sufficient information to enable the intended users of the appraisal to understand the report properly.

10. By the conduct described in the Findings of Fact, Respondent violated SR 2-2 (a) (viii) by failing to ensure the appraisal report content was consistent with its intended use, generally failing to summarize the information analyzed, appraisal methods and techniques employed, and the reasoning supporting those analyses, opinions and conclusions.

11. By the conduct described in the Findings of Fact, Respondent violated SR 2-2 (a) (xii) by failing to ensure the appraisal report content was consistent with its intended use, specifically failing to summarize within the appraisal report the support and rationale for his opinion of highest and best use of the subject property.

12. As a result of the above USPAP violations, Respondent has violated Wis. Admin. Code § SPS 86.01(1) and (2), and is therefore subject to discipline pursuant to Wis. Stat. § 458.26 (3)(c) and (i).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Richard Anthony Hearn is REPRIMANDED.
3. Respondent Richard Anthony Hearn's certificate of licensure and certification (1405-9) is LIMITED as follows:

a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete thirty (30) 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:

1. 2020 – 2021 USPAP course (15 hours) (must be taken online).
2. The FHA Handbook 4000.1 (7 hours).
3. That's a Violation (4 hours).
4. Appraiser Self Protection: Documentation and Record Keeping (4 hours).

b. 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.

c. 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.

d. The education completed pursuant to this Order may not be used to satisfy any other continuing education requirements of the Board.

4. Within one-hundred eighty (180) days from the date of this Order, Respondent Richard Anthony Hearn shall pay the COSTS of this matter in the amount of \$1,988.

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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov/>.

6. In the event Respondent violates any term of this Order, Respondent's certificate of licensure and certification (1405-9), 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: David J. Figurski

A Member of the Board

Date 5/23/2023

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RICHARD A. HEARN,
RESPONDENT.

STIPULATION

ORDER 0008568

Division of Legal Services and Compliance Case No. 21 APP 006

Respondent Richard A. Hearn and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

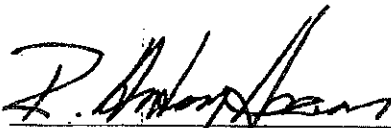
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives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

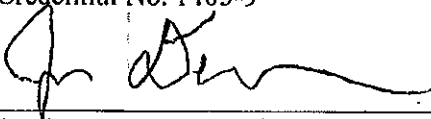
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Richard A. Hearn, Respondent
Delafield, WI 53018
Credential No. 1405-9

3/3/23

Date



Jon Derenne, Prosecuting Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

3/8/23

Date