

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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THE STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
PATRICK T. WAGNER, :
RESPONDENT. : **ORDER 0008570**

Division of Legal Services and Compliance Case No. 21 APP 052

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

Patrick T. Wagner
Rio, WI 53960

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 Patrick T. Wagner (Birth Year 1970) is certified by the State of Wisconsin as a certified residential appraiser, having certificate of licensure and certification number 646-9, first issued on April 20, 1993 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 Rio, Wisconsin 53960.

2. On September 12, 2007, Respondent was disciplined (Final Decision and Order # LS07091219APP) in Case Number 06 APP 077 for violating Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule (SR) 1-2 (c), 1-2 (e), 1-2 (f), 1-4 (a), and 1-4 (b).

3. On October 8, 2021, the Department received a complaint alleging that Respondent had performed an inadequate appraisal. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 21 APP 052 for investigation.

4. On August 26, 2020, Respondent performed an appraisal and drafted an appraisal report for a property located at 140 Lake Shore Terrace, Beaver Dam, Wisconsin 53916.

5. On September 7, 2021, Respondent provided to the client a revised appraisal report for the property, which he identified as the “final” appraisal report. This report is substantially the same as the August 26, 2020 report, with the exception of two additional comparable sales added and a new, lower opinion of value.

6. Respondent’s appraisal reports were reviewed by the DLSC and were found to be deficient in the following ways:

- a. In the Reconciliation section of the reports, Respondent stated that the cost approach was not included due to the age of the improvements. However, in the Cost Approach section of the reports, Respondent provided an opinion of value using the cost approach. Respondent noted the source of the cost data was the Marshall and Swift Handbook from June 2019. Using dated cost data reduces the credibility of this approach to value. [SR 1-1(c), SR 2-2(a)(x)(1)]
- b. In Respondent’s final appraisal report, with a reporting date of September 7, 2021, Respondent did not provide an analysis as to why there was a wide discrepancy between the purchase agreement and his final opinion of value. [SR 1-5(a), SR 2-2(a)(x)(3)]
- c. Respondent provided apparently contradictory statements regarding sales and financing concessions. In the 1004MC Market Conditions Addendum, Respondent wrote, “Sales and financing concessions are common in this area.” However, on the Supplemental Addendum, under URAR: Neighborhood – Market Conditions, Respondent wrote, “Sales and financing concessions do not appear to be prevalent in this area.” Respondent did not provide an analysis or explanation for these two different statements. [SR 1-1(c), SR 2-2(a)(x)(5)]
- d. The 1004MC Market Conditions Addendum and Page 1 of the Fannie Mae 1004 form support a conclusion that prices are increasing. However, some of the sales Respondent used were 4 and 5 months dated from the date of the contract and should have been adjusted for the increasing market conditions. Respondent did not provide an analysis or explanation for why these adjustments were not made. [SR 2-2(a)(x)(5)]
- e. In the Sales Comparison Approach section of the reports, Respondent utilized two active listings. Both properties sold after the August 26, 2020 report, in September and October 2020. Respondent discussed these sales in the Supplemental Addendum of the September 7, 2021 report, noting that both sold for less than their list prices. Respondent failed to provide an analysis or explanation of the market conditions as of the effective date of his appraisal and that of his report. [SR 2-2(a)(x)(5)]

- f. In the Sales Comparison Approach section of the report, Respondent made adjustments for site area, market conditions, age, and unfinished lower levels, but Respondent failed to provide his analysis, reasoning and support for his adjustments. [SR 2-2(a)(x)(5)]
- g. In the Sales Comparison Approach section of the reports, Respondent appears to have valued above grade and below grade living areas differently. Although Respondent made adjustments for the total finished area in the basements, he did not make any adjustments for the difference in the total square footage in the basement area. Respondent also did not provide his analysis nor any support for his opinion not to adjust for significant differences in total basement area. [SR 2-2(a)(x)(5)]
- h. In the Sales Comparison Approach section of the reports, Respondent made significant upward adjustments to Sales #3, 5, and 6 due to condition. These sales were also adjusted significantly above the opinion of value of the subject property. This brings into question their comparability, condition, or age differences. Respondent failed to provide any analysis or explanation of why these properties were included as comparables despite their apparent significant differences in value from the subject. [SR 2-2(a)(x)(5)]
- i. In the September 7, 2021 report, Respondent reviewed two additional sales that were not reviewed in the August 26, 2020 report. These sales were closer in proximity and were more similar in size and age to the subject property. Both sales closed prior to the effective date of the August 26, 2020 report. The adjusted sales prices of these two other properties were in the low \$200,000s, significantly below the contract price of the subject property. The failure to include these properties in the August 26, 2020 report reduces the credibility of the value opinion in that report. Respondent did not provide an analysis or explanation of why these properties were added to the September 2021 report. It appears that Respondent had a predetermined opinion of value for both reports, aiming for a value close to the sales price in the August 2021 report, and aiming for a lower value when his client presented market data that showed a lesser opinion of value. [SR 2-2(a)(x)(5)]

7. In resolution of this matter, in order to avoid significant expense, inconvenience, and uncertainty, and solely for the purpose of resolving this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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, 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 affects the credibility of those results.

3. By the conduct described in the Findings of Fact, Respondent violated SR 2-2 (a)(x) (1), (3), and (5) by failing to ensure the content of the appraisal report was appropriate for the intended use of the appraisal and failing to include sufficient information to indicate that the appraiser complied with the requirements of Standard 1 by:

- a. summarizing the appraisal methods and techniques employed.
- b. summarizing the results of analyzing the subject sales, agreements of sale, options, and listings in accordance with Standards Rule 1-5.
- c. summarizing the information analyzed and the reasoning that supports the analyses, opinions, and conclusions, including reconciliation of the data and approaches.

4. As a result of the above 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 Patrick T. Wagner is REPRIMANDED.
3. Respondent Patrick T. Wagner's certified residential appraiser certificate of licensure and certification (no. 646-9) is LIMITED as follows:
 - a. Within sixty (60) days of the date of this Order, Respondent shall successfully complete the following remedial education courses from a provider pre-approved by the Board or its designee, including taking and passing any exam(s) offered for the course(s):
 - i. National USPAP course (15 hours) (must be taken online).
 - ii. Residential Site Valuation and Cost Approach (15 hours).
 - iii. Supporting Adjustments: The Nexus Between the Cost, Sales, and Income Approaches (7 hours).
 - iv. That's a Violation (4 hours).
 - v. Appraiser Self Protection: Documentation and Record Keeping (4 hours).

- b. 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.
- c. The education completed pursuant to this Order may not be used to satisfy any other continuing education requirements with the Board.

4. Within ninety (90) days from the date of this Order, Respondent Patrick T. Wagner shall pay the COSTS of this matter in the amount of \$1,667.

5. All submissions, including 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:

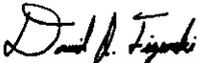
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Submissions may also be made online at: <https://dspsmonitoring.wi.gov/>

6. In the event Respondent violates any term of this Order, Respondent's certificate of licensure and certification (number 646-9), 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

5/23/2023
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PATRICK T. WAGNER,
RESPONDENT.

:
:
:
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:
:

STIPULATION

ORDER 0008570

Division of Legal Services and Compliance Case No. 21 APP 052

Respondent Patrick T. Wagner and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

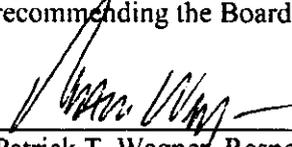
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives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

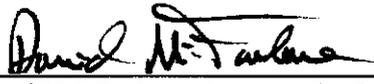
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Patrick T. Wagner, Respondent
Rio, WI 53960
Credential No. 646-9

04/29/2023

Date



David McFarlane, Attorney for Respondent
Bell Moore & Richter SC
345 W. Washington Ave #302
Madison, WI 53703

5/1/2023

Date



Megan Reed, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

05/02/2023

Date