

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **FINAL DECISION AND ORDER**
SHAWN M. MULLEN, :
 : **LS0702288APP**
 :
RESPONDENT. :

Division of Enforcement Case No. 05 APP 049

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

Shawn M. Mullen
5509 Shamrock Road
Waunakee, WI 53597

Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708 8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Real Estate Appraisers Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Shawn M. Mullen (“Mullen”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 5509 Shamrock Road, Waunakee, WI 53597, and whose date of birth is January 5, 1964, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-655). The certificate was first granted on May 11, 1993, and will expire on December 14, 2007.

2. On June 6, 2005, Mr. Mullen conducted an appraisal of real property located at 118-124 Freidel Avenue, Marshall, WI, which is a duplex (“subject property”).

3. A review of the appraisal reports submitted by Mr. Mullen shows USPAP violations including, but not limited to, the following:

a. USPAP Standards Rule 1-2(a), (b), (c) and (f) by failing to explicitly identify the intended users and intended use of the appraisal report, by failing to provide an opinion of reasonable exposure time linked to the value opinion, and by failing to include a scope of work statement in the report.

b. USPAP Standards Rule 1-4(a) by failing to make any location adjustments where the comparables selected were all from different communities.

4. Per Wis. Stat. § 458.26(3), “... the board may limit, suspend or revoke any certificate under this chapter... if the... board finds that the... holder of the certificate has done any of the following: (b) Engaged in unprofessional... conduct in violation of rules promulgated under s. 458.24.

5. Per Wis. Admin. Code § RL 86.01(2), “All appraisals performed in conjunction with federally related

transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I.”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.
2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).
3. By performing appraisals and rendering appraisal reports that do not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, Mr. Mullen has violated Wis. Admin. Code § RL 86.01(2), thereby subjecting himself to discipline per Wis. Stat. § 458.26(3)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **Shawn M. Mullen** (license # 9-655) shall complete the following as remedial education, and which may not be counted towards his continuing education requirements: (a) Residential Report Writing and Case Studies (15 hours), offered by Appraisal Institute or a substantially similar course approved by the Board’s Monitoring Liaison offered by a Wisconsin Technical College. Successful completion of one or more of these courses will include successful completion of any testing component, if offered. Mr. Mullen must submit proof of successful completion of a course or courses as set forth in this paragraph within one of the date of signing of this Order.
2. **Shawn M. Mullen** shall pay costs of this investigation in the amount of one thousand (\$1,200.00) dollars within one year of the day of the signing of this Order.
3. Proof of completion of coursework and payment of costs shall be mailed, faxed, delivered or otherwise transmitted to the Department Monitor.

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264
4. Case number 05 APP 049 is hereby closed.
5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent’s license and certification (#9-655). The Real Estate Appraisers Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to timely submit any payment of costs as set forth above, or fails to complete the ordered education the Respondent’s license and certification (#9-655) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.
6. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

A Member of the Board

Date

**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **STIPULATION**
SHAWN M. MULLEN, :
 :
 : **LS** _____
RESPONDENT. :

Division of Enforcement Case No. 05 APP 049

It is hereby stipulated and agreed, by and between Shawn M. Mullen, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending formal complaint against Respondent’s licensure by the Division of Enforcement (05 APP 049). Respondent consents to the resolution of this formal complaint in lieu of proceeding to litigation.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided with the opportunity to obtain legal counsel prior to 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 Enforcement for further proceedings. In the event that this 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 Enforcement and any member of the Real Estate Appraisers Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board 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 Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

SHAWN M. MULLEN

Respondent

5509 Shamrock Road

Waunakee, WI 53597

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date