

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

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**IN RE DISCIPLINARY PROCEEDINGS** :  
**AGAINST** :  
 : **FINAL DECISION AND ORDER**  
**DAVID M. LYNCH,** :  
 : **LS0705168APP**  
 :  
**RESPONDENT.** :

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Division of Enforcement Case No. 05 APP 026

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

David M. Lynch  
2736 Sarah Lane  
Beloit, WI 53511

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

The parties in these matters agree to the terms and conditions of the attached Stipulation as the final decision of the matter(s), 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 David M. Lynch ("Respondent"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 2736 Sarah Lane, Beloit, Wisconsin 53511, and whose date of birth is October 16, 1945, possesses a certificate of licensure and a certificate of certification to practice as a licensed appraiser (#4-1233). The certificate was first granted on August 17, 1999, and will expire on December 14, 2007.
2. At all times relevant to this complaint, Respondent has done business as, "Lynch Appraisal," with a mailing address of 3 Valley Road, Beloit, WI 53511.
3. On January 6-9, 2001, Respondent conducted an appraisal of real property located at 921 Townline Avenue, Beloit, WI 53511.
4. Respondent has violated the following provisions of the 2001 Uniform Standards of Professional Appraisal Practice ("USPAP"):
  - a. Standards Rule 1-1(a), which requires an appraiser to, "...correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal," by using comparables with substantially different features and without making adequate adjustments when employing the sales comparison approach;
  - b. Standards Rule 1-1(b), which requires that an appraiser, "not commit a substantial error of omission or commission..." by failing to address all pertinent tax information, the presence of an additional parcel adjacent to the subject property and its impact on market value of, and failing to discuss and analyze prior sales of the property;
  - c. Standards Rule 1-2(a), which requires an appraiser to, "identify the client and other intended users," by failing to do so;

- d. Standards Rule 1-2(b), which requires an appraiser to, “identify the intended use of the appraiser’s opinions and conclusions;” by failing to do so; and
- e. USPAP Standards Rule 1-2(f), which requires and appraiser to, “identify the scope of work,” by failing to do so.

5. Per Wis. Admin. Code § RL 86.01(2), “All appraisals... shall conform to the uniform standards of professional appraisal practice...” Per Wis. Admin. Code § RL 86.01(1), “Certified and licensed appraisers shall comply with the standards of practice established by ch. 458, Stats., and chs. RL 80 to 86 and the standards set forth in Appendix I” (Appendix I contains the Uniform Standards of Professional Appraisal Practice).

### 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 failing to comply with the 2001 Uniform Standards of Professional Appraisal Practice, as set forth in paragraph 4 of the findings of fact, Respondent has subjected himself to discipline per Wis. Stat. § 458.26(3)(b).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of Respondent **DAVID M. LYNCH** (#4-1233) shall be, and hereby is **LIMITED** as follows: (a) Respondent may not rely upon the work of any other person, including, but not limited to, any trainee, clerical staff and/or of assistant regarding the historic facts or description of any subject property or any comparable properties; and (b) Respondent may not provide any training or supervision to any other appraiser or any trainee seeking experience for use in obtaining an appraisal license. Respondent may petition the Board for removal of the limitation no sooner than two years from the date of completion of all required continuing education required by this Order.

IT IS FURTHER ORDERED that:

2. Respondent shall take and successfully complete the following courses offered by the Appraisal Institute, to include the testing component: (a) Residential Sales Comparison and Income Approach; and (b) either Advanced Residential Applications & Case Studies or Residential Site Valuation and Cost Approach. These courses must be completed within one year of the date of signing of this Order. These courses may not be counted towards Respondent’s continuing education requirements.

3. Respondent shall pay costs of this investigation in the amount of three hundred and fifty (\$350.00) dollars within ninety (90) days of the signing of this Order.

4. All payments and proof of completion of education required by this order to be submitted to the Department Monitor shall be mailed, faxed or delivered to:

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

5. Case number 05 APP 026 is hereby closed.
6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being.

and may result in a summary suspension of Applicant's license and certification. 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 comply with the conditions of this Order, the Respondent's license and certification (#4-1233) SHALL BE SUSPENDED, without further notice or hearing, until such time as Respondent has complied with the terms of this Order.

7. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel  
A Member of the Board

5/16/07  
Date

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

**IN RE DISCIPLINARY PROCEEDINGS  
AGAINST**

**DAVID M. LYNCH,**

**RESPONDENT.**

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**STIPULATION**

**LS** \_\_\_\_\_

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Division of Enforcement Case No. 05 APP 026

It is hereby stipulated and agreed, by and between David M. Lynch, Respondent; William A. Abbott, attorney for 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 investigation of Respondent's licensure by the Division of Enforcement (05 APP 026). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

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 obtained the advice 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.

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**DAVID M. LYNCH**

Respondent

2736 Sarah Lane

Beloit, WI 53511

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Date

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**WILLIAM A. ABBOTT**

Bell Gierhart & Moore, S.C.

Attorneys for Respondent

44 East Mifflin Street

Madison, WI 53701

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Date

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**MARK A. HERMAN**

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

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Date