

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
:
ALVIN L. COUNARD and CYNTHIA A. : LS09022512APP
SHEDLOSKY, :
RESPONDENTS. :

Division of Enforcement Case File # 07 APP 072

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

Alvin L. Counard
2767 Newberry Avenue
Green Bay, WI 54302

Cynthia A. Shedlosky
1535 Crystal Lake Drive #2
Green Bay, WI 54311

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 (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 Alvin L. Counard (Counard), whose last known address of record with the Department of Regulation and Licensing (Department) is 2767 Newberry Avenue, Green Bay, WI 54302, and whose date of birth is June 13, 1943, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-1310). The certificate was first granted on November 19, 2003, and will expire on December 15, 2009. Additionally, Mr. Counard previously possessed a certificate of licensure as a licensed appraiser (#4-1234). The license was first granted on August 18, 1999, and expired on January 1, 2006.

2. Respondent Cynthia A. Shedlosky (Shedlosky), whose last known address of record with the Department of Regulation and Licensing (Department) is 1535 Crystal Lake Drive #2, Green Bay, WI 54311, and whose date of birth is June 14, 1957, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-1315). The certificate was first granted on December 9, 2003, and will expire on December 15, 2009. Additionally, Ms. Shedlosky previously possessed a certificate of licensure as a licensed appraiser (#4-1487). The license was first granted on September 13, 2002, and expired on January 1, 2006.

3. On May 5, 2005, Mr. Counard and Ms. Shedlosky signed a real estate appraisal report and certification statement concerning a subject property located at 1030 Buchanan Road, Kaukauna, WI.

4. A review of the appraisal report shows violations of the applicable Uniform Standards of Professional Appraisal Practice (USPAP) including, but not limited to, the following:

a. USPAP Standards Rule 1-1 (a), which requires appraisers to, “be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal,” by failing to utilize the most similar comparable sales available in when considering the age, design and appeal of the subject property.

b. USPAP Standards Rule 1-1 (b), which requires appraisers to, “not commit a substantial error or omission or commission that significantly affects an appraisal,” by failing to make appropriate adjustments when employing the sales comparison approach to valuation based upon the actual age of the subject property.

c. USPAP Standards Rule 1-2 (e), which requires appraisers to, “identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including: (i) its location and physical, legal and economic attributes;” by reporting that the age of the subject property was 15 years, when, in fact, it was 29 years old at the time of the appraisal.

d. USPAP Standards Rule 1-5 (b), which requires appraisers to, “analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal,” by failing to adequately analyze the difference between the appraised value of \$153,500 with an effective date of April 29, 2005, and the last sales price of \$97,000 on November 29, 2004, six months earlier.

5. 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.”

6. 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 an appraisal and rendering an appraisal report that does not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 4 of the Findings of Fact, **Alvin L. Counard** and **Cynthia A. Shedlosky** have violated Wis. Admin. Code § RL 86.01 (2), thereby subjecting themselves to discipline per Wis. Stat. § 458.26 (3) (b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The licenses and certifications of **Alvin L. Counard** (license #9-1310 and #4-1234), shall be, and hereby are, REPRIMANDED.

IT IS FURTHER ORDERED that:

2. The licenses and certifications of **Cynthia A. Shedlosky** (license #9-1315 and #4-1487), shall be, and hereby are, REVOKED. Ms. Shedlosky shall surrender all indicia of licensure to the Department Monitor within twenty (20) days of the date of signing of this Order.

3. **Alvin L. Counard** shall successfully complete no less than sixty (60) hours of remedial education, the subjects of which shall be Residential Appraisal Report Case Studies and Appraisal Procedures. Substitute courses shall only be allowed if approved in advance by the Board’s Monitoring Liaison. Courses completed in compliance with this Order may not be counted towards Respondent’s continuing education requirements. Successful completion of any course shall include receipt of a passing score on any examination. Mr. Counard shall complete at least 30 hours courses within six months of the date of signing of this Order. Mr. Counard shall complete any remaining portion of the 60 hours of education ordered within fifteen (15) months of the date of signing of this Order. Mr. Counard shall submit proof completion of education to the Department Monitor within forty-five (45) days of the applicable due date.

4. Each Respondent shall pay one-half of the costs of investigating this matter, in the amount of SIX HUNDRED DOLLARS (\$600.00) PER RESPONDENT. **Alvin L. Counard** shall pay \$600.00 by December 1, 2009. Costs assessed to **Cynthia A. Shedlosky** shall be immediately due and owing upon the Department of Regulation and Licensing's receipt of any application for any license administered by the Department from Ms. Shedlosky.

5. All submissions required by this Order shall be mailed, faxed, delivered or otherwise transmitted to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817 Fax (608) 266-2264

6. Case number 07APP 072 is hereby closed.

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

REAL ESTATE APPRAISERS BOARD

By: Sharon Fiedler
A Member of the Board

2/25/09
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : STIPULATION
:
ALVIN L. COUNARD and CYNTHIA A. : LS _____
SHEDLOSKY, :
RESPONDENTS. :

Division of Enforcement Case File # 07 APP 072

It is hereby stipulated and agreed, by and between Alvin L. Counard, Respondent; Cynthia A. Shedlosky, Respondent; Thomas L. Keidatz, Attorney for Respondents; 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 against Respondents' licensures by the Division of Enforcement (07 APP 072). Respondents consent to the resolution of this matter without the issuance of a formal complaint.

2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, 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 them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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 them 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. Respondents have obtained legal counsel prior to signing this Stipulation.

4. Respondents agree 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. Respondents are 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 Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Alvin L. Counard, Respondent
2767 Newberry Avenue
Green Bay, WI 54302

Date

Cynthia A. Shedlosky, Respondent
1535 Crystal Lake Drive #2
Green Bay, WI 54311

Date

Thomas L. Keidatz,
Roels, Keidatz, Fronsee & Danen, LLP
Attorneys for Respondents
P.O. Box 5065
515 George Street
De Pere, WI 54115-5065

Date

Mark A. Herman, Attorney
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

Date