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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
SUSAN A. BUCHHOLTZ, : **LS0905201APP**
RESPONDENT. :

Division of Enforcement case file # 08 APP 010

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Susan A. Buchholtz
1014 S. Main St.
Lake Mills, WI 53511

Wisconsin 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 disposition of this matter, subject to the approval of the Wisconsin Real Estate Appraisers Board (“Board”). The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Susan A. Buchholtz is licensed in the State of Wisconsin as a Real Estate Appraiser. Her license, number 9-94, was first issued on September 19, 1991. Ms. Buchholtz is also certified as a Certified Residential Appraiser.
2. Ms. Buchholtz’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 1014 South Main Street, Lake Mills, WI 53511.
3. In October of 2007, Kathryn Birk submitted an application to the Department for licensure as a Real Estate Appraiser and she submitted three appraisal reports as evidence of experience. The reports were for property at 806 MacArthur Drive in Beaver Dam, 215-217 Parkview Lane in Verona, and 2865 Busston Road in Cottage Grove.
4. Subsequently, Kathryn Birk submitted two more appraisal reports to the Department as evidence of experience. These reports were for property at 523 South Main Street in Lake Mills and W9585 Henry Road in Lake Mills.
5. Respondent Susan A. Buchholtz supervised Ms. Birk’s appraisal work for all five appraisals, and signed all five reports as the appraiser.
6. In the appraisal and appraisal report for 806 MacArthur Drive in Beaver Dam, Ms. Birk failed to comply with Standards Rules (S.R.) of the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

a - The request from the lender indicates they are "looking for \$125,000." The property is appraised at \$125,000, and it appears as if this was accomplished by ignoring significant value adding features for the comparable sales. Ethics Rule, Conduct and S.R. 2-2

b - The photographs of the comparable sales do not match those shown on the MLS sheets nor the descriptions in the grid. This creates doubt about the reliability of the report. S.R. 2-2

c - The report does not provide an opinion of reasonable exposure time linked to the value opinion. S.R. 1-2 (c), S.R. 2-2 (b) (v) and the comment below S.R. 1-2 (c) (iv).

d - No Highest and Best Use analysis is provided. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. S.R. 1-3 (b) and S. R. 2-2 (b) (ix).

e - The basement finish adjustments for Sales 1 and 2 are inconsistent - each is adjusted at \$7,000 when Sale 1 is reported on the MLS to have 720 sq. ft. of finish and .75 baths and Sale 2 is reported on the MLS to have 400 sq. ft. of finish and a .5 bath. S.R. 1-4(a) and S.R. 2-2 (b) (viii).

f- The MLS sheet for Sale 1 lists personal property included in the sale and an exposed basement, which are not addressed in the report. S.R. 1-4(a) and S.R. 2-2 (b) (viii).

g - The MLS sheet for Sale 2 lists a "new kitchen," fireplace, jetted tub, new furnace and a/c, new roof, none of which are addressed in the report. S.R. 1-4(a) and S.R. 2-2 (b) (viii).

h - The MLS sheet for Sale 3 lists a "new roof, new 100 amp. electric, new carpeting, new oak doors, newer windows, & new front door," none of which are addressed in the report. S.R. 1-4(a) and S.R. 2-2 (b) (viii).

i - The MLS sheet for Sale 4 lists "hardwood floors and crown molding, updated kitchen, and bathroom, all new windows, updated electrical, newer roof and central air," none of which are addressed in the report. S.R. 1-4(a) and S.R. 2-2 (b) (viii).

j - The report does not provide support for the concluded land value, and there is nothing in the work file provided to support the land value. S.R. 1-4 (b) and S.R. 2-2 (b) (viii).

k - "Lack of data" is not a valid reason to exclude the income approach to value. More appropriate reasons might be that zoning prohibits rental, or that similar homes are purchased for owner occupancy and not investment. S.R. 1-4 (c) and S.R. 2-2 (b) (viii).

7. In the appraisal and appraisal report for 215-217 Parkview Lane in Verona, Ms. Birk failed to comply with Standards Rules (S.R.) of the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

a - The report does not provide an opinion of reasonable exposure time linked to the value opinion. S.R. 1-2 (c), S.R. 2-2 (b) (v) and the comment below S.R. 1-2 (c) (iv).

b - No Highest and Best Use analysis is provided. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. S.R. 1-3 (b) and S. R. 2-2 (b) (ix).

c - The report fails to adjust for Sale 1's two fireplaces, per the MLS, which are value adding features omitted in the report. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

d - The report includes inconsistent adjustments for number of bedrooms: Sale 1's additional bedroom was valued at \$1,000 while Sale 2's additional bedroom was valued at \$3,000. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

e - The rents used in the report for Sale 2 and Sale 3 are different than that shown on the MLS. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

f - Sale 2 is described in the report as having an "unfinished" basement, when the MLS sheet shows that one of the units is in the basement. The MLS sheet for Sale 2 shows it has a "huge workshop," yet there is nothing in the report about this value-adding feature.

The shed for Sale 3 which is shown on the MLS is omitted from the report. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

g - There is no explanation for the lack of age adjustments for Sales 1 and 3 which are newer than the subject. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

h - The report does not provide support for the concluded land value, and there is nothing in the work file provided to support the land value. S.R. 1-4 (b) and S.R. 2-2 (b) (viii).

i - The effective date of the appraisal is 10/09/07. According to the MLS sheets for the rent comparables (the cited source of the information), the leases for Rent Comparable 1 had expired as of 07/087 and 06/07; the leases for Rent Comparable 2 had expired as of 05/07 and 08/07, and there were no leases for Rent Comparable 3. The concluded market rent is higher than the contract rents for the subject when there are actually no current rent comparables provided. S.R. 1-4 (c) and S.R. 2-2 (b) (viii).

j - The report mis-states the property interest being valued. It is labeled "fee simple" and is actually "leased fee" or "fee simple, subject to lease." Even though there is no box on this form to check which reads "leased fee," the correct interest should be identified in the report. S.R. 1-4 (d) and S.R. 2-2 (b) (iv).

8. In the appraisal and appraisal report for 2865 Busston Road in Cottage Grove, Ms. Birk failed to comply with Standards Rules (S.R.) of the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

a - The report does not provide an opinion of reasonable exposure time linked to the value opinion. S.R. 1-2 (c), S.R. 2-2 (b) (v) and the comment below S.R. 1-2 (c) (iv).

b - No Highest and Best Use analysis is provided. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. S.R. 1-3 (b) and S. R. 2-2 (b) (ix).

c - Basement finish adjustments for Sales 1 and 2 are inconsistent. According to the MLS, Sale 1 has 734 sq. ft. of basement finish and a .75 bath, Sale 2 has 412 sq. ft. of basement finish and no bath, and the subject has 675 sq. ft. of basement finish and either a .75 or a .5 bath. The difference for Sale 1 is adjusted at \$34/sq. ft. Applying this same adjustment to Sale 2, (675 sq. ft. - 412 sq. ft. X \$34/sq. ft.), the adjustment to Sale 2 should be \$8,900 plus consideration of this sale having no basement bath. The sale is adjusted up only \$2,000. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

d - The report does not mention or adjust for Sale 1's jetted tub and shed large enough to accommodate a boat and lawn equipment, per the MLS. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

e - The report does not mention or adjust for Sale 2's "completely remodeled 3/4 mstr bath, new flooring through main floor, remodeled kitchen...., large shed and play structure included..... new roof siding & (some) windows," per the MLS. S.R. 1-

4 (a) and S.R. 2-2 (b) (viii).

f - The report does not mention or adjust for Sale 3's "10x 12...shed" and "four season porch," per the MLS, and the report refers to the four-season porch as a screened porch. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

g - The report does not provide support for the concluded land value, and there is nothing in the work file provided to support the land value. S.R. 1-4 (b) and S.R. 2-2 (b) (viii).

h - "Lack of data" is not a valid reason to exclude the income approach to value. More appropriate reasons might be that zoning prohibits rental, or that similar homes are purchased for owner occupancy and not investment. S.R. 1-4 (c) and S.R. 2-2 (b) (viii).

i - The MLS shows that the house had been on the market for ~10 months but the report does not analyze the contract for sale. S.R. 1-5 and S.R. 2-2 (b) (viii).

9. In the appraisal and appraisal report for 523 South Main Street in Lake Mills, Ms. Birk failed to comply with Standards Rules (S.R.) of the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

a - The report does not provide an opinion of reasonable exposure time linked to the value opinion. S.R. 1-2 (c), S.R. 2-2 (b) (v) and the comment below S.R. 1-2 (c) (iv).

b - There is no support in the report for why a house which is 128 years old and in "average" condition would have an effective age of 20 years. There is no indication in the report that any components of the house have been updated. S.R. 1-2 (e) and S.R. 2-2 (b) (iii).

c - No Highest and Best Use analysis is provided. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. S.R. 1-3 (b) and S.R. 2-2 (b) (ix).

d - There are essentially no explanations for any of the adjustments and at least one -- the adjustment for a half-bath -- is inconsistent. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

e - "Lack of data" is not a valid reason to exclude the income approach to value. More appropriate reasons might be that zoning prohibits rental, or that similar homes are purchased for owner occupancy and not investment. S.R. 1-4 (c) and S.R. 2-2 (b) (viii).

10. In the appraisal and appraisal report for W9585 Henry Road in Lake Mills, Ms. Birk failed to comply with Standards Rules (S.R.) of the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

a - The report does not provide an opinion of reasonable exposure time linked to the value opinion. S.R. 1-2 (c), S.R. 2-2 (b) (v) and the comment below S.R. 1-2 (c) (iv).

b - The report fails to analyze the 07/07 sale of the subject and the current offer to purchase and listing and it fails to properly report the sales concessions included in the current sale of the property. S.R. 1-1, S.R. 2-1, S.R. 2-2 (b) (vii).

c - The subject is incorrectly described as having a full basement, when its area is only 95% of the area of the main floor.

d - The report indicates that the subject is served by a septic system whereas the MLS sheet for the subject indicates that it is served by a holding tank. Since a holding tank is detrimental to marketability given higher holding costs (more frequent pumpings than for a conventional septic system), there should have been

discussion and adjustment, if there is, in fact, only a holding tank. In addition, there is no adjustment or explanation for Sales 2 and 3, which have municipal water and sewer per the MLS sheets. S.R. 1-2 (e), S.R. 2-2 (b) (iii), and S.R. 2-2 (b) (viii).

e - No Highest and Best Use analysis is provided. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms. S.R. 1-3 (b) and S. R. 2-2 (b) (ix).

f - The lot adjustments are inconsistent and there is no explanation for the lack of age adjustments, particularly for Sales 1 and 4 when these two sales, in particular, differ from the subject significantly in age. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

g - There is no explanation for not including or adjusting for Sales 2's storage shed. S.R. 1-4 (a) and S.R. 2-2 (b) (viii).

h - The report does not provide support for the concluded land value. S.R. 1-4 (b) and S.R. 2-2 (b) (viii).

i - "Lack of data" is not a valid reason to exclude the income approach to value. More appropriate reasons might be that zoning prohibits rental, or that similar homes are purchased for owner occupancy and not investment. Additionally, the MLS sheet shows that the subject was rented through August 2008, but this is not disclosed nor discussed in the report. S.R. 1-4 (c) and S.R. 2-2 (b) (viii).

j - The report contains inconsistent information related to seller concessions. At the top of page 1, the report indicates no seller concessions yet at the bottom of the same page, it discloses \$3,000 in seller concessions, meaning that since the subject property was listed for sale at \$189,900 with an accepted offer to purchase at \$189,000, the net sales price was \$186,000. The Standards Rule requires the appraiser to analyze the listing and agreement of sale, and there is no explanation as to why the property is worth more than the list price and the offer price. According to the report, the house sold in 07/07 for \$192,500, but there is no analysis of that sale, either. Given that the subject is selling for 3.4% less than it sold for 9 months earlier, there should be a meaningful discussion of why. If it is based on a declining market, Sales 1 and 3 should have been adjusted down for time since they sold in the same time frame as the Subject's 07/07 sale. S.R. 1-5 and S.R. 2-2 (b) (viii).

11. Under USPAP SR 2-3, an appraiser who signs a report, either as the appraiser or as a supervisor, accepts full responsibility for the content of the report.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

2. By failing to comply with USPAP in the appraisals and the appraisal reports for property at 806 MacArthur Drive in Beaver Dam, 215-217 Parkview Lane in Verona, 2865 Busston Road in Cottage Grove, 523 South Main Street in Lake Mills, and W9585 Henry Road in Lake Mills, Respondent Susan A. Buchholz violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that Susan A. Buchholtz is hereby REPRIMANDED.

IT IS FURTHER ORDERED that within twelve months of the date of this Order, Susan A. Buchholtz must successfully

complete the following Appraisal Institute courses or equivalent courses at an educational institution approved in advance by the Department of Regulation and Licensing.

- Either Residential Sales Comparison and Income Approaches (30 hr. course, including 2 hr. exam) and Residential Site Valuation and Cost Approach (15 hr. course, including 1 hr. exam) or (in place of both of those courses) Residential Case Study (39 hr. course, including 3 hr. exam); and
- Either Liability Management for Residential Appraisers (7 hr. seminar) or Quality Assurance in Residential Appraisals: Risky Appraisals = Risky Loans (7 hr. seminar)

Ms. Buchholtz shall submit proof of successful completion in the form of verification from the institution providing the education to the following address:

Department Monitor
Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Fax (608) 266-2264
Tel. (608) 267-3817

None of the education completed pursuant to this order may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

In the event Ms. Buchholtz fails to successfully complete the educational requirements in the manner set forth, or to obtain an extension of time for good cause, her Real Estate Appraisers license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until she provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Susan A. Buchholtz's Real Estate Appraisers license is hereby **LIMITED** starting on the 10th business day after the date of this Order, as follows:

- 1 - Ms. Buchholz may not supervise other appraisers or trainees.
- 2 - Ms. Buchholtz may not appraise properties more complex than a single family house, a single condominium unit, or a single lot with a highest and best use of single family residence.

Following completion of all the required education, Respondent may perform one appraisal of a 2-4 unit residential property. This appraisal, and two other appraisals which have been performed following completion of all the required education, shall be submitted to the Department Monitor for review by the Board or its designee. If found to be acceptable, all limitations on Respondent's license shall be removed. If any of the appraisals is found by the Board or its designee to be unacceptable, the limitations shall continue until further order of the Board. Respondent may request a meeting with the Board to determine what steps may be taken to remove the limitations, in whole or in part.

IT IS FURTHER ORDERED that Susan A. Buchholtz pay the Department's costs of this matter in the amount of **\$850**, within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor. In the event Ms. Buchholtz fails to pay the costs within the time and in the manner as set forth above, her Real Estate Appraisers license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs (including any accrued interest) have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that the violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license; the Board in its discretion may in the alternative impose additional conditions and limitations or other discipline.

Dated this May 20, 2009.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton
a member of the Board