

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
:
PAMELA K. GIBBS and JOHN C. FORSYTHE, : LS0910075APP
:
RESPONDENTS. :

Division of Enforcement Case File # 07 APP 138 and 07 APP141

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

Pamela K. Gibbs
3320 172nd Street
Chippewa Falls, WI 54729

John C. Forsythe
222 Little Canada Road E
Suite 175
Little Canada, MN 55117

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 Pamela K. Gibbs (Gibbs), whose last known address of record with the Department of Regulation and Licensing (Department) is 3320 172nd Street, Chippewa Falls, WI 54729, and whose date of birth is September 3, 1960, possesses a certificate of licensure to practice as a licensed appraiser (#4-1576). The license was first granted on June 12, 2003, and will expire on December 15, 2009.

2. Respondent John C. Forsythe (Forsythe), whose last known address of record with the Department of Regulation and Licensing (Department) is 222 Little Canada Road E, Suite 175, Little Canada, MN 55117, and whose date of birth is April 9, 1961, possesses a certificate of licensure and a certificate of certification to practice as a certified general appraiser (#10-502). The certificate was first granted on December 6, 1993, and will expire on December 15, 2009.

3. On June 14, 2006, Ms. Gibbs conducted, and Mr. Forsythe subsequently signed, an appraisal of W3487 Highway 35, Maiden Rock, WI 54750. 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 Rules 1-1(b), which states that appraisals shall, “not commit a substantial error of omission or commission which significantly affects and appraisal...” and 2-2 (b)(viii), which states that appraisers should include the following as part of the “content” of a report, at a “minimum”: “describe the information analyzed... and the reasoning that supports the analysis, opinions, and conclusions...” The subject property was in the process of being converted from an industrial building to a residence at the time of the appraisal. The appraisal report claimed that the property was being valued “as-is.” The comparable sales used were either residential properties or had all completed their conversions to residential use, and were of similar size to the subject. Yet when employing the sales comparison approach to value the adjustments for Above Grade Gross Living Area do not reflect the fact that the subject’s conversion was incomplete. Further, when employing the cost approach to value there was no adjustment for functional obsolescence. Nor was there an explanation in the report for failing to make these adjustments.

b. USPAP Standards Rule 1-5, which requires appraisers to “analyze all current agreements of sale...” and “analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal...” and 2-2 (b)(viii), which states that appraisers should include the following as part of the “content” of a report, at a “minimum”: “describe the information analyzed... and the reasoning that supports the analysis, opinions, and conclusions...” A land contract selling the property for the amount of \$180,000 was assigned on September 16, 2004. On June 23, 2006, the property was transferred by Quit Claim Deed. On June 28, 2006 the property was again transferred by Warranty Deed. Even if Respondents were unable to determine the terms of sale associated with these transfers (if any) some description of the analysis of this information is needed. *See* USPAP Advisory Opinion 1, lines 63 et. seq.

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 an appraisal report that does not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, **Pamela K. Gibbs** and **John C. Forsythe** 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. **Pamela K. Gibbs** and **John C. Forsythe** shall each successfully complete forty (40) hours of remedial EDUCATION IN LIEU OF A REPRIMAND, from the following topics: (a) Advanced Sales Comparison Approach; and (b) Advanced Cost Approach. Courses completed in compliance with this Order may not be counted towards Respondents’ continuing education requirements. Successful completion of any course shall include receipt of a passing score on any examination. Proof of completion of all courses must be submitted to the Department Monitor within one (1) year of the date of signing of this Order. Courses taken in fulfillment of this Order must be approved in advance by the Board’s Monitoring Liaison.

IT IS FURTHER ORDERED THAT:

2. Both **Pamela K. Gibbs** and **John C. Forsythe** shall pay the costs of investigating this matter, in the amount of THREE HUNDRED DOLLARS (\$350.00) per Respondent within sixty (60) days of the date of signing of this Order.

3. 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

4. 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 the offending Respondent'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 terms of this Order. In the event that a Respondent fails to timely submit any payment of costs as set forth above, or fails to comply with the ordered education the offending Respondent's license and certification SHALL BE SUSPENDED, without further notice or hearing, until offending Respondent has complied with the terms of this Order.

5. Case number 07 APP 138 and 07 APP 141 are hereby closed.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A Member of the Board

10/07/09
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : STIPULATION
 :
PAMELA K. GIBBS and JOHN C. FORSYTHE, : LS _____
 :
RESPONDENTS. :

Division of Enforcement Case File # 07 APP 138 and 07 APP 141

It is hereby stipulated and agreed, by and between Pamela K. Gibbs, Respondent; John C. Forsythe, 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 pending investigations against Respondents' licensures by the Division of Enforcement (07 APP 138 and 07 APP 141). 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 been provided with the opportunity to obtain 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. Respondents waive 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 Respondents or their 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 Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Pamela K. Gibbs, Respondent
3320 172nd Street
Chippewa Falls, WI 54729

Date

John C. Forsythe, Respondent
222 Little Canada Road E
Suite 175
Little Canada, WI 55117

Date

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

Date