

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN RE THE APPLICATION OF	:	
	:	FINAL DECISION AND ORDER
LAURA K. KURTH	:	
	:	LS0605111APP
RESPONDENT.	:	

Division of Enforcement Case No. 05 APP 089

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

Laura K. Kurth
4423 Gessner Road
Eau Claire, WI 54703

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 Secretary of the Department of Regulation and Licensing or her Designee (Secretary or Designee). The Secretary or Designee has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Secretary or Designee adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Applicant Laura K. Kurth ("Applicant"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 4423 Gessner Road, Eau Claire, Wisconsin 54703, does not presently hold any license or certificate granted by the Department.
2. On or about April 8, 2003, Applicant signed an application for a credential as a real estate appraiser. On August 13, 2005, Applicant passed the examination required to receive certification and licensure as a Licensed Appraiser.
3. As part of the application process, a member of the Real Estate Appraisers Application Advisory Committee ("reviewer") reviewed three appraisals for which the Applicant claimed hours of experience in application for the credential. The reviewer concluded that the appraisals submitted contained violations of the following provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP"):
 - a. 2003 USPAP Standards Rule 2-1, by using boilerplate language, and by making errors, such as including conflicting information, mistakes, and typographical errors, which resulted in the reports being misleading and confusing;
 - b. 2003 USPAP Standards Rule 2-2(b)(i), by failing to specifically identify the intended user of the appraisal report in the report;
4. Per Wis. Admin. Code § RL 83.01(3), "...work claimed... for appraisal experience credit shall: (a) Be in compliance with the uniform standards of professional appraisal practice, as in effect at the time the appraisals were prepared."
5. There is no evidence of intent on the part of the Applicant or the licensees to create misleading reports, and the licensees who signed the reports have not previously been disciplined by the Real Estate Appraisers Board.
6. Three more recent appraisals conducted by the Applicant were also reviewed, and were found to be improved, but still contain some of the same issues noted above.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction to act in these matters pursuant to Wis. Stat. § 440.03(13).

2. The Wisconsin Department of Regulation and Licensing has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stats. § 227.44(5).

3. Work experience submitted by the Applicant for the purpose of receiving a credential was not in compliance with the 2003 Uniform Standards of Professional Appraisal Practice Standards Rules 2-1 and 2-2(b), contrary to Wis. Admin. Code § RL 83.01(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Applicant LAURA K. KURTH shall be issued a LIMITED license as a licensed appraiser; the license shall be LIMITED to require that all appraisals signed by the Applicant shall be signed by a supervisory appraiser, who shall be a licensee whose license has never been suspended, limited or revoked by the Real Estate Appraisers Board. The limitation may not be removed until the Applicant submits a roster of at least two hundred (200) appraisals signed by Applicant and a supervisory appraiser since the date of this Order, from which the Department will select three (3) to be reviewed. If the review shows that the three appraisals reviewed substantially comply with USPAP, then the limitation shall be removed.

2. Applicant LAURA K. KURTH shall take and successfully complete ONE of the following COURSES as remedial education between January 1, 2006 and January 1, 2007: Evaluating Residential Construction conducted by the Appraisal Institute; OR Real Estate Appraisal II conducted by the Chippewa Valley Technical College; OR a course substantially similar to these, if approved in advance by monitoring liaison of the Real Estate Appraisers Board.

IT IS FURTHER ORDERED that:

3. Respondent shall pay costs of this investigation in the amount of fifty (\$50.00) dollars within ninety (90) days of the signing of this Order, pursuant to Wis. Stat. § 440.03(13).

4. All payments and information required by this order to be submitted to the Department Monitor shall be mailed 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 089 is hereby closed.

6. 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 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.

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

DEPARTMENT OF REGULATION AND LICENSING

By: Celia M. Jackson
Secretary or Designee

5/10/06
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN RE THE APPLICATION OF	:	
	:	STIPULATION
LAURA K. KURTH,	:	
	:	LS _____
APPLICANT.	:	

Division of Enforcement Case No. 05 APP 089

It is hereby stipulated and agreed, by and between Laura K. Kurth, Applicant; 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 request for a license denial hearing relating to Laura K. Kurth (Applicant), by the Division of Enforcement (05 APP 089). Applicant consents to the resolution of this investigation by stipulation and without the issuance of a formal notice of hearing.
2. Applicant understands that by signing this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the reasons for denial of her license application, at which time she has the burden of proving her fitness for a license by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her 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. Applicant has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Applicant agrees to the adoption of the attached Final Decision and Order by the Department of Regulation and Licensing (Department). 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. Applicant waives all rights to any appeal of the Department’s order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Department, 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 Department, the parties agree not to contend that the Department 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 may appear before the Department informally or formally, in open or closed session, without the presence of Applicant or her attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Department’s deliberations on the Stipulation.
7. Applicant is informed that should the Department adopt this Stipulation, the Department’s final decision and order is a public record.
8. The Division of Enforcement joins Applicant in recommending the Department adopt this Stipulation and issue the attached Final Decision and Order.

LAURA K. KURTH

Applicant

4423 Gessner Road

Eau Claire, WI 54703

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date