

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
:
CAROL LYNN BERG, : LS0610186APP
RESPONDENT. :

Division of Enforcement Case No. 06 APP 021

The parties to this action for the purposes of Wis. Stat. sec. 227.53 are:

Carol Lynn Berg
2764 Highway 45
Antigo, Wisconsin 54409

Real Estate Appraisers Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Carol Lynn Berg (Date of Birth: August 2, 1966) possesses a certificate of licensure and a certificate of certification to practice in the state of Wisconsin as a Certified Residential Appraiser and a certificate of licensure to practice in the state of Wisconsin as a Licensed Appraiser in the state of Wisconsin (both using certificate number 9-1062). These certificates were first granted on March 10, 1997, and are current through December 14, 2007.
2. Ms. Berg's most recent address known to the Department of Regulation and Licensing is 2764 Highway 45, Antigo, Wisconsin 54409.
3. Each person possessing certificates of licensure and certification to practice as a Certified Residential Appraiser and a certificate of licensure to practice as a Licensed Appraiser in the state of Wisconsin must renew those certificates of licensure and certification biennially, by January 1 of each even-numbered year. [Wis. Stat. secs. 440.08(2)(a)11m. and 440.08(2)(a)12
4. To be eligible to renew the certificates of licensure and certification for the next biennial registration period, the licensee must have completed at least 28 hours of Department approved continuing education in the previous biennial registration period. [Wis. Stat. sec. 458.13, and Wis. Admin. Code § RL 85.01(1)]
5. Prior to December 31, 2005, the Wisconsin Department of Regulation and Licensing sent Ms. Berg a Real Estate Appraise

Renewal Application to execute and return with the required fee if Ms. Berg wished to renew her certificates of licensure and certification in the state of Wisconsin for the January 1, 2006, through December 14, 2007, biennium. The printed Real Estate Appraiser Renewal Application that Ms. Berg received contains the following language:

“MAKING A FALSE STATEMENT IN CONNECTION WITH ANY APPLICATION FOR CREDENTIAL IS GROUNDS FOR REVOCATION OR DENIAL.”

6. Ms. Berg elected to renew her certificates of licensure and certification on the on-line form available at the Department’s website.

That on-line Real Estate Appraiser Renewal Application contains the following language:

“I have completed 28 hours of Department-approved education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between January 1, 2004 and December 31, 2005. I have evidence of this which I will furnish to the Department upon request.”

7. Ms. Berg filled out the on-line Real Estate Appraiser Renewal Application on December 30, 2005, certifying that she had completed the continuing education requirements of the Real Estate Appraisers Board during the January 1, 2004, through December 31, 2005, biennium.

8. As part of a random audit which the Real Estate Appraisers Board conducted of its licensees, Ms. Berg was sent a letter, dated January 27, 2006, requesting that she send the Board verification that she had completed the 28 hours of approved continuing education, which she had claimed to have completed prior to renewing her certificates of licensure and certification for the January 1, 2006, through December 14, 2007, biennium.

9. By way of a letter dated, February 22, 2006, Ms. Berg submitted documentation that she had only completed 7 hours of approved continuing education hours during the January 1, 2004, through December 31, 2005, biennium. In the same letter, Ms. Berg explained that a continuing family emergency prevented her from completing the rest of the continuing education hour during the January 1, 2004, through December 15, 2005, biennium. Ms. Berg completed an additional 21 hours of approved continuing education hours in January and February of 2006. Ms. Berg wanted the 21 hours to be attributed to the January 1, 2004, through December 31, 2005, biennium.

10. Ms. Berg did not complete the required 28 hours of approved continuing education during the January 1, 2004, through December 31, 2005, biennium, prior to renewing her certificates for the January 1, 2006, through December 14, 2007, biennium.

11. Ms. Berg made a material misstatement on her December 30, 2005, on-line renewal application when she attested that she had completed 28 hours of approved continuing education during the January 1, 2004, through December 31, 2005, biennium.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction over this matter, pursuant to Wis. Stat. sec. 458.26, and Wis. Admin. Code Ch. RL 85.

2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached stipulation, pursuant to Wis. Stat. sec. 227.44(5).

3. By not completing the required 28 continuing education credits during the required time frame Carol Lynn Berg has violated:

a. Wis. Stat. sec. 458.13. Continuing Education Requirements.

b. Wis. Stat. sec. 458.26(3)(a). Made a material misstatement in an application for the

certificate or renewal of the certificate or in any other information furnished to the Board or Department.

- c. Wis. Stat. Sec. 458.26(3)(b). Engaged in unprofessional conduct in violation of rules promulgated under Wis. Stat. sec. 458.24.
- d. Wis. Stat sec. 458.26(3)(i). Violated this chapter or any rule promulgated under this chapter.
- e. Wis. Admin. Code § RL 85.01. Continuing Education Requirements.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Carol Lynn Berg (certificate #9-1062) is hereby **REPRIMANDED**.
2. **IT IS FURTHER ORDERED** that Ms. Berg shall pay a **forfeiture** in the amount of **FIVE HUNDRED dollars (\$500.00)**; and the amount of **TWO HUNDRED dollars (\$200.00)** for a **full assessment of costs** of this proceeding, all to be paid within **one hundred twenty (120) days** of the effective date of the Board's Order adopting the Stipulated Agreement (The effective date of the board's Order is the date of signing by the Board's chair or his designee).
3. The assessed forfeiture and partial assessment of costs shall be payable by cashier's check or money order made payable to the Department Monitor (Place case number on the check or money order and the words "Forfeiture" and/or "Costs").

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, WI 53708-8935

5. If Carol Lynn Berg fails to pay the forfeiture and full assessment of costs, or fails to obtain a written extension from the Board to complete same, then Carol Lynn Berg shall be considered to be in violation of the Board's Order and may be subjected to further discipline.

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
On Behalf of the Board

10-18-2006
Date

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : STIPULATION
:
CAROL LYNN BERG, : LS# _____
RESPONDENT. :

Division of Enforcement Case No. 06 APP 021

It is hereby stipulated between Carol Lynn Berg, Respondent, and John C. Temby, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Ms. Berg by the Division of Enforcement (06 APP 021). Ms. Berg consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. Berg understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations 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, and the Wisconsin Administrative Code.
3. Ms. Berg is aware of her right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this Stipulation.
4. Ms. Berg agrees to the adoption of the attached Final Decision and Order by the Real Estate Appraisers Board (hereinafter “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. Ms. Berg 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 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 the member of the Board assigned as advisor in this investigation may appear before the Board in open and closed session, without the presence of Ms. Berg or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board’s deliberations on the Stipulation.
7. Ms. Berg is informed that should the Board adopt this Stipulation, the Final Decision and Order is a public record and will be published in accordance with standard Department procedures.
8. The Division of Enforcement joins Carol Lynn Berg in recommending the Board adopt this Stipulation and issue the

attached Final Decision and Order.

Carol Lynn Berg
Respondent
2764 Highway 45
Antigo, Wisconsin 54409
License number: 9-1062

Date

John C. Temby
Attorney
Division of Enforcement
Department of Regulation and Licensing
Post Office Box 8935
Madison, WI 53708-8935

Date