

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN RE DISCIPLINARY PROCEEDINGS :  
AGAINST :  
 : FINAL DECISION AND ORDER  
 JOHN J. BRZEZINSKI, :  
 : LS0702281APP  
RESPONDENT. :

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Division of Enforcement Case No. 05 APP 096

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

John J. Brzezinski  
2907 Waconia Lane  
Middleton, WI 53562

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 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 Real Estate Appraisers 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 John J. Brzezinski (“Brzezinski”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 2907 Waconia Lane, Middleton, WI 53562, and whose date of birth is March 12, 1950, possesses a certificate of licensure and a certificate of certification to practice as a licensed appraiser (#4-1661). The certificate was first granted on December 4, 2003, and will expire on December 14, 2007.

2. On October 14, 2005, the Department of Regulation and Licensing’s Appraiser Application Advisory Committee referred three appraisals submitted by Mr. Brzezinski to the Division of Enforcement, alleging that each contained violations of the applicable Uniform Standards of Professional Appraisal Practice (“USPAP”).

3. A review of the appraisal reports submitted by Mr. Brzezinski shows USPAP violations including, but not limited to, the following:

- a. USPAP Standards Rule 1-2(a), by failing to explicitly identify the intended users of the appraisal reports;
- b. USPAP Standards Rules 1-1(c) and 1-4(a), by making a series of errors related to the sales comparison approach to value, including, but not limited to, making inconsistent adjustments, and adjusting comparables as if they were in “average” condition when the MLS data relied upon in the appraisal report listed significant updates; and
- c. USPAP Standards Rule 2-2, by failing to identify the reporting option used.

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 appraisal reports that do not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, Mr. Brzezinski has violated Wis. Admin. Code § RL 86.01(2), thereby subjecting himself to discipline per Wis. Stat. § 458.26(3)(b).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **John J. Brzezinski** (holder of license # 4-1661) shall complete the following courses or seminars as remedial education, and which may not be counted towards his continuing education requirements: (a) Real Estate Fraud: The Appraiser Responsibilities and Liabilities (7 hours), offered by the Appraisal Institute *and* Residential Sales Comparison Approach (7 hours) offered by the Appraisal Institute; *or* (b) Residential Report Writing and Case Studies (15 hours), offered by the Appraisal Institute a substantially similar course approved by the Board’s Monitoring Liaison offered by a Wisconsin Technical College *or* (c) Advanced Residential Application and Case Studies/Part 1 (15 hours). Successful completion of one or more of these courses will include successful completion of any testing component, if offered. Mr. Brzezinski must submit proof of successful completion of a course as set forth in this paragraph within one year of the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. Respondent shall pay costs of this investigation in the amount of four hundred and fifty (\$450.00) dollars within ninety (90) days of the signing of this Order.
3. Proof of completion of coursework and payment of costs shall be mailed, faxed, delivered or otherwise transmitted.

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

4. Case number 05 APP 096 is hereby closed.
5. 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 Respondent’s license and certification (#4-1661). 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. In the event that Respondent fails to timely submit any payment of costs as set forth above, or fails to complete the ordered education the Respondent’s license and certification (#4-1661) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.
6. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel  
A Member of the Board

2/28/07  
Date

**STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD**

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**IN RE DISCIPLINARY PROCEEDINGS** :  
**AGAINST** :  
 : **STIPULATION**  
**JOHN J. BRZEZINSKI,** :  
 :  
 : **LS** \_\_\_\_\_  
**RESPONDENT.** :

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Division of Enforcement Case No. 05 APP 096

It is hereby stipulated and agreed, by and between John J. Brzezinski, 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 a pending formal complaint against Respondent's licensure by the Division of Enforcement (05 APP 096). Respondent consents to the resolution of this formal complaint in lieu of proceeding to litigation.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him 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. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.

4. Respondent agrees 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. Respondent is 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.

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**JOHN J. BRZEZINSKI**

Respondent

2907 Waconia Lane

Middleton, WI 53562

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Date

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**MARK A. HERMAN**

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

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Date