

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **FINAL DECISION AND ORDER**
LYNN M. BELL, :
 : **LS0705165APP**
 :
RESPONDENT. :

Division of Enforcement Case No. 05 APP 065, 05 APP 066 and 05 APP 090

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

Lynn M. Bell
15 West Pine Street
Platteville, WI 53818

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 Lynn M. Bell (“Respondent”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 15 West Pine Street, Platteville, WI, and whose date of birth is July 15, 1953, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-1088). The certificate was first granted on October 20, 1997, and will expire on December 14, 2007.

Count I: Fennimore Appraisal

2. On May 31, 2002, Ms. Bell appraised and signed an appraisal report of real property located at 1045 13th Street, Fennimore, WI. Respondent reported a fair market value of \$63,000 for the property. Since the time of the appraisal a new home has been built on the lot.

3. Respondent has violated the following provisions of the 2002 Uniform Standards of Professional Appraisal Practice (“USPAP”):

- a. Standards Rule 1-2(a) and (b) which requires an appraiser to, “identify the client and other intended users,” and “intended use” by failing to explicitly do so; and
- b. Standards Rule 1-2(e), which requires and appraiser to, “identify the characteristics of the property” by providing incorrect and incomplete information regarding the characteristics of the property, including, but not limited to, the siding type.

4. Per Wis. Admin. Code § RL 86.01(2), “All appraisals... shall conform to the uniform standards of professional appraisal practice...” Per Wis. Admin. Code § RL 86.01(1), “Certified and licensed appraisers shall comply

with the standards of practice established by ch. 458, Stats., and chs. RL 80 to 86 and the standards set forth in Appendix I” (Appendix I contains the Uniform Standards of Professional Appraisal Practice).

Count II: Prairie du Chien Appraisal

5. On July 18, 2002, Ms. Bell appraised and signed an appraisal report of real property located at 521 South Illinois Street, Prairie du Chien, WI.

6. Respondent has violated the following provisions of the 2002 Uniform Standards of Professional Appraisal Practice (“USPAP”):

- a. Standards Rule 1-1(a), which states that an appraiser must, “be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal...” by making internally inconsistent and insufficient adjustments for comparable sales selected;
- b. Standards Rule 1-1(b), which states that an appraiser must, “not commit a substantial error of omission or commission...” by failing to correctly note the characteristics of comparables, including, but not limited to, failing to note and adjust for existence of a two-car attached garage and shed for one comparable, and sales concessions for a second comparable;
- c. Standards Rule 1-1(c), which states that an appraiser must, “not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results” by including inaccurate information in the report, including, but not limited to, incorrectly spelling the name of the municipality, giving a “final value” of “\$120,000” and a “market value” of “\$110,000” in the same report, using incorrect lot dimensions and above-grade gross living area; and
- d. Standards Rule 1-2(a) and (b) which requires an appraiser to, “identify the client and other intended users,” and “intended use” by failing to explicitly do so.

Count III: Lancaster Appraisal

7. On May 24, 2005, Ms. Bell appraised and signed an appraisal report of real property located at 220 Lincoln Street, Lancaster, WI. Ms. Bell concluded that the fair market value of the subject property was approximately \$95,000 on the date of the appraisal.

8. Respondent has violated the following provisions of the 2005 Uniform Standards of Professional Appraisal Practice (“USPAP”):

- a. Standards Rule 1-1(a), which states that an appraiser must, “be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal...” by making internally inconsistent and insufficient adjustments for comparables, and by estimating an effective age of 15 years for a 95-year-old subject without adequate support for this conclusion in the report;
- b. Standards Rule 1-1(b), which states that an appraiser must, “not commit a substantial error of omission or commission...” by failing to correctly note the characteristics of the subject, including, but not limited to, the above-grade gross living area of the subject property, and failing to state the dimensions of the second story in the subject’s floor-plan;
- c. Standards Rule 1-1(c), which states that an appraiser must, “not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results” by including inaccurate information in the report, including, but not limited to, incorrectly indicating the lot size, parcel number and zoning classification; and
- d. Standards Rule 1-5(a), which requires an appraiser to, “analyze all agreements of sale... of the subject...” by failing to obtain a then-current agreement of sale of the subject for the sum of \$93,500, but which included \$13,600 worth of concessions, or, in the alternative, to state in the report that the agreement of sale had been requested but not provided to her.

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 failing to comply with the 2002 and 2005 Uniform Standards of Professional Appraisal Practice, as set forth in paragraphs 3, 6 and 8 of the findings of fact, Respondent has subjected herself to discipline per Wis. Stat. § 458.26(3)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of Respondent **LYNN M. BELL** (#9-1088) shall be, and hereby is **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. The license and certification of Respondent **LYNN M. BELL** (#9-1088) shall be, and hereby is **LIMITED** as follows: (a) Respondent may not rely upon the work of any other person, including, but not limited to, any trainee, clerical staff and/or office assistant regarding the historic facts or description of any subject property or any comparable properties; and (b) Respondent may not provide any training or supervision to any other appraiser or any trainee seeking experience for use in obtaining an appraisal license. Respondent may petition the Board for removal of this limitation following presentation of proof of successful completion of all remedial education required by this Order.

3. Respondent shall take and successfully complete the following courses or seminars offered by the Appraisal Institute: (a) National Uniform Standards of Professional Appraisal Practice Update Course – 15 Hour; (b) Business Practices and Ethics; (c) Internet Search Strategies for Real Estate Appraisers; (d) Valuation of Detrimental Conditions in Real Estate; (e) Residential Design and Functional Utility; and (f) FHA and the New Residential Appraisal Forms. Successful completion of these courses shall include the successful completion of any testing component, if available. These courses must be completed within one year of the date of signing of this Order. These courses may not be counted towards Respondent's continuing education requirements. Alternative courses may be used in place of courses designated in this Order only with prior approval of the Board's Monitoring Liaison.

4. Respondent shall pay costs of this investigation in the amount of one thousand and one hundred dollars (\$1,100.00) within ninety (90) days of the date of signing of this Order.

5. Respondent shall pay a forfeiture in the amount of two hundred and fifty dollars (\$250.00) within ninety (90) days of the date of signing of this Order.

6. All payments and proof of completion of education required by this order to be submitted to the Department M shall be mailed, faxed 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

7. Case numbers 05 APP 065, 05 APP 066 and 05 APP 090 are hereby closed.

8. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well and may result in a summary suspension of Respondent's license and certification (#9-1088). The Real Estate Appraisers Board 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 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 (#9-1088) SHALL BE SUSPENDED, without further notice hearing, until Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
A Member of the Board

5/16/07
Date

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

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **STIPULATION**
LYNN M. BELL, :
 : **LS** _____
 :
RESPONDENT. :

Division of Enforcement Case No.s 05 APP 065, 05 APP 066 and 05 APP 090

It is hereby stipulated and agreed, by and between Lynn M. Bell, Respondent; William Pharis Horton, attorney for 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 of Respondent's licensure by the Division of Enforcement (05 APP 065, 05 APP 066 and 05 APP 090). Respondent consents to the resolution of these investigations by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing 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 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. Respondent has been provided with the opportunity to obtain the advice of 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 her 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.

LYNN M. BELL

Respondent
15 West Pine Street
Platteville, WI 53818

Date

WILLIAM PHARIS HORTON

Attorney for Respondent
Suite 7
222 North Midvale Blvd.
Madison, WI 53705

Date

MARK A. HERMAN

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

Date