

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

DALE M. NEWMAN,

RESPONDENT.

:
:
:
:
:
:
:

FINAL DECISION AND ORDER

LS07091213APP

Division of Enforcement Case No. 06 APP 013

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

Dale M. Newman
P.O. Box 88
123 South Main Street
Amherst, WI 54406

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 Dale M. Newman ("Newman"), whose last known address of record with the Department of Regulation and Licensing ("Department") is P.O. Box 88, 123 South Main Street, Amherst, WI 54406, and whose date of birth is September 1, 1944, holds a certificate of certification and certificate of licensure as a certified residential appraiser in the state of Wisconsin (#9-435). The certificate was first granted on May 29, 1992, and will expire on December 14, 2007.

2. On October 11, 2002, Mr. Newman signed an appraisal of real property located at E3389 Cty. Hwy. G, Iola, WI.

3. Also signing the report was an apprentice who received a license approximately two years after the date of signing.

4. A review of the Iola appraisal report shows violations of the applicable Uniform Standards of Professional Appraisal Practice (USPAP) including, but not limited to, the following:

a. USPAP Standards Rule 1-1 (a), which requires appraisers to, "be aware of, understand and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal," by making inconsistent adjustments, including, but not limited to, adjusting comparable sale #1 by \$15,000 for a difference of approximately 8 acres v. the subject, but making no adjustment to comparable sale #2 for a difference of approximately 7 acres v. the subject.

b. USPAP Standards Rule 1-1 (c), which requires appraisers to, "not render appraisal services in a careless or negligent manner... (which) in the aggregate affect the credibility of those results" by extensive use of approximations

including, but not limited to: (i) describing the age range of the neighborhood as “newer” and “older;” (ii) describing the actual age of the subject as “50+” when the actual age of the subject was approximately 100 years, with an addition added approximately 60 years ago; and (iii) describing the site of comparable sale #2 as “3+ acres” when the Multiple Listing Service reflects that the site size was 2.93 acres.

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.”

6. 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.”

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 completing appraisal reports in a manner which does not comply with the Uniform Standards of Professional Appraisal Practice, as described above in paragraph 4 of the Findings of Fact, **Dale M. Newman** 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. Respondent **Dale M. Newman** (#9-435) shall successfully complete the following courses in lieu of a reprimand within months of the date of signing of this Order: Business Practices and Ethics, offered by the Appraisal Institute AND Professionals to the Uniform Residential Appraisal Report, offered by the Appraisal Institute. Successful completion shall include successful completion of the testing component, if offered. Any education taken in fulfillment of this paragraph may not be counted toward Respondent’s continuing education requirements.

IT IS FURTHER ORDERED that:

2. **Dale M. Newman** shall pay the costs of the investigation of this matter, in the amount of one thousand five hundred do (\$1,500.00) by December 1, 2007.

3. All costs and proof of completion of education shall be submitted to the Department Monitor by mailing or delivering th 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

4. Case number 06 APP 013 is hereby closed as to all respondents.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A Member of the Board

9/12/07
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
DALE M. NEWMAN,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 06 APP 013

It is hereby stipulated and agreed, by and between Dale M Newman, Respondent; Gary R. Villnow, II, 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 a pending investigation of Respondent’s licensure by the Division of Enforcement (06 APP 013). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
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 obtained 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 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.

DALE M. NEWMAN

Respondent

P.O. Box 88

123 South Main Street

Amherst, WI 54406

Date

GARY R. VILLNOW II

Attorney for Respondent

P.O. Box 187

Amherst, WI 54406-0187

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date