

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
ALLEN L. BAEHR :
: LS0709122APP
:
RESPONDENT. :

Division of Enforcement Case No. 06 APP 098

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

Allen L. Baehr
H3542 County Road N
Colby, WI 54421

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 Allen L. Baehr ("Baehr"), whose last known address of record with the Department of Regulation and Licensing ("Department") is H3542 County Road N, Colby, WI 54421, and whose date of birth is May 11, 1943, holds a certificate of licensure and license as a licensed appraiser in the state of Wisconsin (#4-1479). The certificate was first granted on August 16, 2002, and will expire on December 14, 2007.
2. On October 2, 2003, Mr. Baehr signed an appraisal report and certification statement for an appraisal of real property located at 6555 Elm Street, Vesper, WI 54489 ("subject property").
3. A review of the appraisal report for the subject property shows violations of the 2003 Uniform Standards of Professional Appraisal Practice (USPAP) including, but not limited to, the following:
 - a. USPAP Standards Rules 1-1 (a), which requires an appraiser to "be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;" by selecting as comparable sales three sales that were all from areas approximately 15-20 miles removed from the subject property, per information contained in Respondent's own report, when other comparables that were closer to the subject property and which had equally similar attributes were available, and without making adjustments for location or utilizing additional comparables for locational support.
 - b. USPAP Standards Rule 1-1 (b), which requires an appraiser to "not commit a substantial error of omission or commission that significantly affects an appraisal;" by: (i) reporting the site size as .49 acres, when the actual size was .30 acres; and (ii) reporting the predominant value for the neighborhood as \$90,000, when the predominant value was \$60,000, per the local assessor.

c. USPAP Standards Rule 1-1 (c), which requires an appraiser to “not render appraisal services in a careless or negligent manner...” and USPAP Standards Rule 1-2 (e) which requires an appraiser to “identify the characteristics of the property that are relevant to the appraisal...” by: (i) failing to provide FEMA flood zone information in the appraisal report; (ii) reporting the age as “50+” when the year built was readily available from the assessor, and is reported by the assessor as being 1920; (iii) reporting that the interior walls were drywall/panel, when they were plaster; and (iv) reporting that the foundation was “cement” when it was stone and concrete.

d. USPAP Standards Rule 1-5 (b), which requires an appraiser to “analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal...” by failing to acknowledge that the subject property was sold for \$65,000 on March 22, 2001, and to analyze the implications of the sale for Respondent’s opinion of market value of \$125,000 on October 2, 2003.

e. USPAP Standards Rule 2-3, which requires an appraiser to certify that “I have no... (or the specified) personal interest with respect to the parties involved... (and) I have no bias with respect to... the parties involved with this assignment...” by failing to disclose that his daughter managed the local office of the client which requested the appraisal report, and that her income was based upon profits earned by that office through the successful financing of mortgage loans, one of which was being facilitated by the appraisal.

4. 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.”

5. Per Wis. Stat. § 458.26(3), “...the board may limit, suspend or revoke any certificate under this chapter... if the department or board finds that the... holder of the certificate has done any of the following: ... (b) Engaged in unprofessional or unethical conduct in violation of rules promulgated under § 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 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, **Allen L. Baehr** has committed five or more violations of 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. The certificate of licensure and license of Respondent **ALLEN L. BAEHR** (#4-1479) shall be, and hereby is, **SUSPENDED** for a period of **FORTY-FIVE DAYS**, to begin thirty (30) days after the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. The certificate of licensure and license of **Allen L. Baehr** (#4-1479) shall be, and hereby is, **LIMITED** prohibit him from conducting any appraisal on behalf of any client which is, or which employs, is owned, is managed, or which is as an independent contractor, or which is otherwise similarly associated with, any person who is related to **Allen L. Baehr** by or marriage.

3. **Allen L. Baehr** must successfully complete the following as remedial education, which may not be counted toward his continuing education requirements: (a) Business Practices and Ethics, offered by the Appraisal Institute; (b) Basic Appraisal Principles, offered by the Appraisal Institute; and (c) Basic Appraisal Procedures, offered by the Appraisal Institute. All courses be completed within one year of the date of signing of this Order. Successful completion of one or more these courses will include successful completion of any testing component, if offered.

4. **Allen L. Baehr** shall pay costs of these investigations in the amount of \$1,000 within one year of the date of signing of this Order.

5. All submissions and payments required by this Order 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

6. 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. The Board in its discretion may in the alterna impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the that the Respondent fails to timely submit any payment of the partial cost as set forth above or fails to comply with the ordered continuing education, the Respondent's license and certification (4-1479) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

7. Case number 06 APP 098 is hereby closed.

8. 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**
ALLEN L. BAEHR :
 : **LS** _____
 :
RESPONDENT. :

Division of Enforcement Case No. 06 APP 098

It is hereby stipulated and agreed, by and between Allen L. Baehr, Respondent; James B. Connell, 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 098). 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 by a 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. Respondent neither admits nor denies the allegations contained in the findings of fact of the attached Order, but admits that there is evidence from which the Real Estate Appraisers Board can make the findings of fact and reach the conclusions of law contained therein.
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.

ALLEN L. BAEHR

Respondent

H3542 County Road N

Colby, WI 54421

Date

JAMES B. CONNELL

Crooks & Connell S.C.

Attorneys for Respondent

531 Washington Street

P.O. Box 1184

Wausau, WI 54402-1184

Date

MARK A. HERMAN
Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date