

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

MICHAEL G. DONAHUE,

RESPONDENT.

:
:
:
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:
:
:

FINAL DECISION AND ORDER

LS0709126APP

Division of Enforcement Case No. 06 APP 085

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

Michael G. Donahue
N1805 Clover Road
Lake Geneva, WI 53147

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 Michael G. Donahue ("Donahue"), whose last known address of record with the Department of Regulation and Licensing ("Department") is N1805 Clover Road, Lake Geneva, WI 53147, and whose date of birth is June 6, 1968, holds a certificate of licensure and license as a licensed appraiser in the state of Wisconsin (#4-1771). The certificate was first granted on March 30, 2004, and will expire on December 14, 2007.

2. On June 8, 2006, Mr. Donahue signed an appraisal report for real property located at 2508 South 9th Place, Milwaukee, WI.

3. A review of the 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 selecting inappropriate comparable rentals and/or failing to correctly adjust for material differences in the same.

b. USPAP Standards Rule 1-5 (b), which requires appraisers to, "analyze all sales of the subject property that occurred within three (3) years prior to the effective date of the appraisal" and/or USPAP Standards Rule 2-2 (b) (ix) by failing to summarize the analysis of the same in the appraisal report.

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... 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 3 of the Findings of Fact, **Michael G. Donahue** has violated Wis. Admin. Code § RL 86.01 (2), thereby subjecting herself 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 **Michael G. Donahue** (#4-1771) shall be, and hereby is, **LIMITED** as follows: (a) Respondent shall be geographically restricted to his county of residence and any county immediately adjacent to (b) Respondent shall not be permitted to conduct, supervise or affix his signature to any appraisal report other than a report concerning a single family residential property. These limitations shall be removed upon presentation of the proof of successful completion of the following education: (i) The Professionals Guide to the Uniform Residential Appraisal Report, conducted by the Appraisal Institute; OR Effective Appraisal Writing, conducted by the Appraisal Institute; OR Residential Report Writing and Case Studies, offered by the Appraisal Institute; AND (ii) Apartment Appraisal, Concepts and Applications, offered by the Appraisal Institute. Successful completion of one or more these courses will include successful completion of any testing component, if offered. Alternative courses shall only be accepted if approved in advance by the Board's Monitoring Liaison. Education required by this paragraph must be completed by no later than December 1, 2008, and may not be counted towards continuing education requirements.

IT IS FURTHER ORDERED that:

2. **Michael G. Donahue** shall pay costs of these investigations in the amount of \$700 within ninety (90) days of the date of signing of this Order.
3. Proof of completion of coursework and payment of costs shall be mailed, faxed, delivered or otherwise transmitted to the Department Monitor.

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 085 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. 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 comply with the terms of this Order, the Respondent's license and certification (#4-1771) 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: 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
MICHAEL G. DONAHUE,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 06 APP 085

It is hereby stipulated and agreed, by and between Michael G. Donahue, 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 085). 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 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 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.

MICHAEL G. DONAHUE

Respondent

N1805 Clover Road

Lake Geneva, WI 53147

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date