

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
MARY J. MUTH, : LS0710178APP
RESPONDENT. :

Division of Enforcement case file 06 APP 114

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Mary J. Muth
MJM Enterprises
3647 South Chase Avenue
Milwaukee, WI 53207

Wisconsin Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708-8935

Attorney John Nicholas Schweitzer
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Real Estate Appraisers Board ("Board"). The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Mary J. Muth is licensed in the State of Wisconsin as a Certified Residential Appraiser having license # 9-1219. This license was first granted to her on March 8, 2001. Ms. Muth's most recent address on file with the Department of Regulation and Licensing ("Department") is 3647 South Chase Avenue, Milwaukee, WI 53207.
2. On 10/10/2006, the U.S. Department of Housing and Urban Development (HUD) sent a letter notifying the Department that Ms. Muth had been sanctioned by removal from the FHA Appraiser Register for a period of one year. The sanction was the result of a review of five appraisals performed by the Respondent: 1939 South 56th Street in West Allis; 2509 Bolivar in Milwaukee; 227 Douglas Avenue in Waukesha; 2546 North 52nd Street in Milwaukee; and 2708 Chicago in South Milwaukee.
3. Ms. Muth's removal from the Appraisers Register was effective from October 8, 2006 to October 7, 2007. In addition, as a condition of reinstatement, Ms. Muth was required to take a McKissock class titled "Appraising FHA Today", which she has completed.

With regard to all five appraisals.

4. Ms. Muth failed to provide an explanation for not identifying and analyzing sellers concessions, the reason being that the information was not made available to her due to privacy concerns.

5. In her comments on additional features, Ms. Muth said only “subject updates are comparable to the neighborhood.”

With regard to Ms. Muth’s appraisal of property at 1939 South 56th Street in West Allis.

6. Ms. Muth reported the 4000 square foot site size as 3600 square feet.

7. Ms. Muth reported that the house had an unfinished scuttle attic when it had both finished and unfinished areas.

With regard to Ms. Muth’s appraisal of property at 2509 Bolivar in Milwaukee.

8. Ms. Muth failed to note the location and condition of an oil storage tank.

9. Ms. Muth incorrectly reported the 1046 square foot GLA of comp 1 as 1099.

10. Ms. Muth failed to make an adjustment to comp 2 for a bathroom.

With regard to Ms. Muth’s appraisal of property at 227 Douglas Avenue in Waukesha.

11. Ms. Muth incorrectly reported a basement bathroom in comp 1 as being above grade, and a second bathroom in the basement of comp 3 as being above grade.

12. Ms. Muth did not note or make an adjustment for an enclosed porch on comp 2.

13. Ms. Muth did not make an adjustment for a half bath in comp 1.

With regard to Ms. Muth’s appraisal of property at 2708 Chicago in South Milwaukee.

14. Ms. Muth reported the view, which includes a MacDonaldis and a bar on the other side of the street, as “residential”.

15. Ms. Muth incorrectly reported the 79-year-old age of comp 2 as 92.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

2. By her errors and omissions in Findings of Fact 4 through 15 above, Respondent Mary J. Muth violated USPAP Standards Rule 1. There is no evidence that Ms. Muth intentionally overvalued the property being appraised, but by the cumulative effect of her errors and omissions in Findings of Fact 4 through 15 above, Respondent Mary J. Muth created a misleading report and therefore also violated USPAP Standards Rule 2. Violations of USPAP Standards Rules 1 and 2 are violations of Wisconsin Administrative Code sections RL 86.01 (1) and (2) and Wisconsin Statutes section 458.26 (3) (b) and she is subject to discipline under section 458.26 (3) of the Statutes.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that Mary J. Muth be REPRIMANDED.

IT IS FURTHER ORDERED that within six months of the date of this Order, Mary J. Muth must successfully complete a class in Residential Appraisal of at least 6 hours at an educational institution approved by the Department of Regulation and Licensing. Mary J. Muth shall submit proof of successful completion in the form of verification from the institution providing the education to the following address:

Department Monitor
Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Fax (608) 266-2264
Tel. (608) 261-7904

None of the education completed pursuant to this order may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

In the event Mary J. Muth fails to successfully complete the educational requirements in the manner set forth, her Certified Residential Appraiser license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until she provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Mary J. Muth's Certified Residential Appraiser license is hereby **LIMITED** starting on the 10th business day after the date of this Order, as follows:

- Ms. Muth shall have any appraisal she performs for HUD co-signed by an FHA appraiser in good standing.

This limitation shall continue for a minimum of one year following the issuance of this order, at which time Mary J. Muth may request its removal by writing to the Board and including supporting documentation from FHA appraisers who have co-signed her work.

IT IS FURTHER ORDERED that Mary J. Muth pay the Department's costs of this matter in the amount of **\$1,374.20** within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor. In the event Mary J. Muth fails to pay the costs within the time and in the manner as set forth above, her Certified Residential Appraiser license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that the violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license; the Board in its discretion may in the alternative impose additional conditions and limitations or other discipline.

IT IS FURTHER ORDERED that file 06 APP 114 be closed.

Dated this 17th day of October, 2007.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
A member of the Board