

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

DEAN R. POIRIER,

RESPONDENT.

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:
:
:
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FINAL DECISION AND ORDER

LS0710154APP

Division of Enforcement Case No. 06 APP 008

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

Dean R. Poirier
12606 52nd Street
Colfax, WI 54730

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 this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, 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 Dean R. Poirier ("Poirier"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 12978 52nd Street, Colfax, WI 54730, and whose date of birth is August 8, 1961, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-1197). The certificate was first granted on September 22, 2000, and will expire on December 14, 2009.
2. On March 17, 2005, Mr. Poirier conducted and appraisal and signed an appraisal report and certification statement for an appraisal of real property located at 1563 State Road 46, Balsam Lake, WI with an effective date of March 17, 2005 ("March report" and "Balsam Lake subject property," respectively). The March report's market value opinion is \$225,000.
3. On December 22, 2005, Mr. Poirier conducted an appraisal and signed an appraisal report and certification statement for an appraisal of the Balsam Lake subject property with an effective date of December 21, 2005 ("December report"). The December report's market value opinion is \$276,400.
4. The post-March 2005 improvements cited in the December report were, "landscaping, clearing of wooded areas, along with remodeling the home and adding a 30x32 shed with loft." No positive adjustments can be found in the December report's sales comparison grid that might be attributable to the landscaping or wood clearing. It is unclear how the improvements might justify a \$51,400 increase in value.
5. Comparable sale #1 from the December report is located on Lykens Lake, a small shallow lake with minimal development. The subject property is not located on a lake or river, but with a watershed in the area. The December report made a \$6,000 adjustment in favor of the subject over comparable sale #1, which was in error. Comparable sale #1 should not have been used as a comparable sale for the subject because it is a water-front property, and any adjustment should have

been in favor of the comparable sale, not the subject.

6. Comparable sale #2 from the March Report should not have been used in the March Appraisal or in the December Appraisal because it is a manufactured home. The use of the comparable compromises the accuracy of the appraisal of the subject property which is not a manufactured home.

7. The 2005 Uniform Standards of Professional Appraisal Practice were applicable to these assignments. Mr. Poirier violated USPAP as follows:

- a. USPAP Standards Rule 1-1 (a), requires appraisers to, “be aware of, understand and correctly employ those recognized methods and techniques necessary to produce a credible appraisal.” It is inappropriate to select a lake-front property as a comparable sale for a non-lake-front property. It was inappropriate to not use comparable sale #2 from the March report in the December report, because it was more similar than the subject than comparable sale #3. By doing so, as described in paragraphs 5 and 6, Mr. Poirier failed to correctly employ recognized methods and techniques necessary to produce a credible appraisal.
- b. USPAP Standards Rule 1-1 (b), requires an appraiser to, “not commit a substantial error of omission or commission that significantly affects an appraisal.” When employing the sales comparison approach to value, adjusting for differences between the subject and a comparable sale in the wrong direction is an error of commission or omission that significantly affects an appraisal. By adjusting the site of a waterfront property in the wrong direct, as described in paragraph 5, Mr. Poirier made an error of commission which significantly affected the appraisal.
- c. USPAP Standards Rule 2-2(b)(ix) requires an appraiser to, “describe all information analyzed... and the reasoning that supports the analyses, opinions, and conclusions.” Mr. Poirier failed to adequately describe the information and analysis of property improvements in a manner sufficient to justify the increase in value from the March report to the December report, even allowing for the fact that he completed summary appraisal reports.

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 paragraphs 7 of the Findings of Fact, **Dean R. Poirier** 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. The license and certification of **Dean R. Poirier** (license # 9-1197) shall be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. **Dean R. Poirier** shall successfully complete no less than forty-five (45) hours of remedial education, the subjects of which shall include: the sales comparison approach to value, appraisal report writing, and ethics. Specific courses taken in fulfillment of this Order shall be approved in advance by the Board’s Monitoring Liaison. Successful completion shall include completion of any examination offered at the end of any course taken. Education taken in fulfillment of this Order may not be counted towards Respondent’s continuing education requirements. Proof of completion of all education required by this Order must be submitted within one (1) year of the date of signing of this Order.

3. **Dean R. Poirier** shall pay the costs of investigating and resolving these matters in the amount of two thousand (\$2,000.00) dollars on or before December 1, 2009.

4. All submissions, payments and proof of completion of education required by this Order shall be mailed, faxed,

delivered or otherwise transmitted 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

5. Case number 06 APP 008 is hereby closed.

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being and may result in a summary suspension of Respondent's license (#9-1197). The 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 Respondent fails to timely submit any payment as set forth above, or fails to timely submit proof of completion of education as set forth above, Respondent's license (#9-1197) SHALL BE SUSPENDED, immediately and without further notice or hearing, until Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A Member of the Board

11/19/08
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

| | | |
|--------------------------------|---|---------------|
| IN RE DISCIPLINARY PROCEEDINGS | : | |
| AGAINST | : | |
| | : | STIPULATION |
| DEAN R. POIRIER, | : | |
| | : | LS#0710154APP |
| | : | |
| RESPONDENT. | : | |

Division of Enforcement Case No. 06 APP 008

It is hereby stipulated and agreed, by and between Dean R. Poirier, Respondent; Charles G. Norseng, 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 formal complaint against Respondent’s licensure by the Division of Enforcement (LS#0710154APP). Respondent consents to the resolution of these matters without proceeding to hearing.
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. Respondent denies the findings of fact and conclusions of law as contained in the attached Order, but admits that there is evidence from which the Wisconsin Real Estate Appraisers Board can make the findings of fact, and that the findings are sufficient to support the conclusions of 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.

DEAN R. POIRIER

Respondent
12606 52nd Street
Colfax, WI 54730

Date

CHARLES G. NORSENG,

Wiley Law, S.C.
Attorneys for Respondent
119 ½ N. Bridge Street
P.O. Box 370
Chippewa Falls, WI 54729

Date

MARK A. HERMAN

Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date