

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
LANCE A. CLOUTIER,	:	
	:	LS0802272APP
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 06 APP 121

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

Lance A. Cloutier
10587 253rd Street
Chisago City, MN 55013

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 Lance A. Cloutier (“Cloutier”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 10587 253rd Street, Chisago City, MN 55013, and whose date of birth is September 24, 1951, holds a certificate of licensure as a licensed appraiser in the state of Wisconsin (#4-1823). The certificate was first granted on July 16, 2004, and will expire on December 14, 2007.
2. On March 14, 2005, Mr. Cloutier signed an appraisal report, the subject of which was real property located at 6 Heritage Boulevard, Hudson, WI.
3. 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 arriving at a gross living area (GLA) adjustment rate of \$10.00 per square foot without utilizing any recognized method for determining adjustment amounts, when the actual adjustment should have been twice that amount by Respondent’s own admission.
 - b. USPAP Standards Rule 1-1 (b), which requires appraisers to “not commit a substantial error of omission or commission that significantly affects an appraisal” by including contradictory information in the report including, but not limited to, stating in the report that the property was being appraised, “as is” while failing to evaluate the subject as an unfinished property as reflected in Respondent’s photographs, which show that the property was still under construction at the time of the report, was without siding, and that the deck had not been built. Respondent made no negative adjustments for the unfinished state of the property, and made no extra-ordinary assumptions.

c. USPAP Standards Rules 1-5 and 2-2 (b) (ix), by failing to analyze the then-current agreement of sale, and by affirmatively stating that there was “No sale, option or listing of the subject... within 3 years preceding (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... 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, **Lance A. Cloutier** 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 certificate of licensure of Respondent **Lance A. Cloutier** (#4-1823) shall be, and hereby is, **SUSPENDED** for a of thirty (30) days, to begin 15 days after the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. The certificate of licensure of Respondent **Lance A. Cloutier** (#4-1823) shall be further limited for a period of no less than one year from the date of signing of this Order. During the period of limitation all appraisals of real property located in the State of Wisconsin and signed by Respondent shall also be signed by a supervising appraiser, who must hold a license as an appraiser from the State of Wisconsin which is in good standing. Prior to requesting removal of the limitation Respondent shall submit a roster of all appraisals performed by him from the date of signing of the Order. The Board's Monitoring Liaison may select up to three appraisals from the roster to be reviewed. Respondent shall provide complete copies of the appraisals selected and all associated work files within 5 business days of receiving notice. Further USPAP errors found in any of the appraisal reports reviewed may be grounds for further discipline.

3. Within one year of the date of signing of this Order, and prior to requesting removal of the limitation Respondent **Lance A. Cloutier** shall submit proof of successful completion of the following remedial education courses: (i) Residential Market Analysis and Highest and Best Use, offered by the Appraisal Institute; and (ii) Residential Sales Comparison and Income Approaches, offered by the Appraisal Institute. Successful completion of any course required by this Order shall include successful completion of any testing component, if offered. All courses required by this Order are required as remedial education, and may not be counted towards Respondent's continuing education requirements.

4. **Lance A. Cloutier** shall pay the costs of the investigation of this matter, in the amount of four hundred and fifty dollars (\$450.00) within ninety (90) days of the date of signing of this Order.

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

6. Case number 06 APP 121 is hereby closed.
7. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Marla L. Britton
A Member of the Board

2/27/08
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
LANCE A. CLOUTIER,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 06 APP 121

It is hereby stipulated and agreed, by and between Lance A. Cloutier, 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 121). 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.

LANCE A. CLOUTIER, Respondent
10587 253rd Street
Chisago City, MN 55013

Date

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

Date