

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

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

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **FINAL DECISION AND ORDER**
JEFFREY M. MCMAHON, :
 : **LS0808135APP**
 :
RESPONDENT. :

Division of Enforcement Case No. 08 APP 008

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

Jeffrey M. McMahon
E4485 Theron Lane
Eleva, WI 54738

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 Jeffrey M. McMahon (“McMahon”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is E4485 Theron Lane, Eleva, WI 54738, and whose date of birth is September 3, 1971, possesses a certificate of licensure as a Licensed Appraiser (#4-1380). The license was first granted on September 14, 2001, and will expire on December 14, 2009.

2. On November 15, 2006, Mr. McMahon conducted an appraisal and signed an appraisal report concerning real property located at E10088 390th Avenue, Eau Claire, WI (“subject property”).

3. The review of the appraisal reports 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 (b) and (c), by reporting that comparable sale #3 sold for \$30,000, when it sold for \$30,900; failing to note or adjust for a three-season porch for comparable sale #2; failing to analyze and adjust (if necessary) for seller financing provided for comparable sale #2; failing to adjust for central air conditioning for comparable sale #1; reporting that the site size of the subject property was 40 acres in one place on the report, and reporting and adjusting for the site size as if it was .50 acres in the sales comparison, when the size was .73 acres per local assessor.

b. USPAP Standards Rule 2-2 (b) (vii), by making adjustments without adequate support.

4. The Department requested and received what Respondent purported to be his work file in this case. The work file consisted of a single sheet check-list used to describe the property, and three single-page sheets from the local

multiple listing service.

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.

6. 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."

7. Per Wis. Admin. Code § RL 86.01(8), "All certified and licensed appraisers shall maintain records as required in s. 458.18, Stats." Per Wis. Stat. § 458.18, "a certified appraiser or licensed appraiser shall retain for at least 5 years the originals or true copies of each appraisal report prepared by the appraiser and all other records that, in the opinion of the appraiser, are material to each appraisal report prepared by the appraiser." Per USPAP, the term "work file" is defined as, "documentation necessary to support an appraiser's analyses, opinions, and conclusions."

8. Mr. McMahon has previously been disciplined for similar USPAP violations, on August 22, 2001 in case LS0605113APP, and on May 10, 2006, just six months prior to the completion of this appraisal report. Education ordered was completed in May of 2007.

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 an 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, and by failing to maintain records, as set forth more fully above in paragraph four of the Findings of Fact, **Jeffrey M. McMahon** has committed four or more violations of Wis. Admin. Code § RL 86.01 (2) and (8), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b) and (i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of **Jeffrey M. McMahon** (# 4-1380) shall be, and hereby is, **REPRIMANDED** **SUSPENDED** for a period of THIRTY (30) DAYS to begin fifteen (15) days from the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. **Jeffrey M. McMahon** shall complete no less than FORTY-FIVE (45) hours of continuing education, which shall consist of the following courses, or equivalent courses if approved in advance by the Board's Monitoring Liaison: (a) Residential Market Analysis and Highest & Best Use, a 15-hour course; and (b) Residential Sales Comparison and Income Approaches, a 30-hour course. At least 50% of the course hours submitted in compliance with this Order must have been conducted on-site in the presence of an instructor. Successful completion of any course ordered by this paragraph shall be defined to include successful completion of any associated exam, if offered. Any course completed pursuant to this paragraph cannot be counted towards Respondent's continuing education obligations.

3. **Jeffrey M. McMahon** shall pay costs of these investigations in the amount of FIVE HUNDRED DOLLARS (\$500.00) within ninety (90) days of the date of signing of this Order.

4. Proof of completion of coursework, payment of costs, and all other submissions required by the 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 08 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 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 conditions of this Order, or fails to complete the required continuing education the Respondent's license and certification (#4-1380) SHALL BE SUSPENDED, 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

8/13/08
Date

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

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **STIPULATION**
JEFFREY M. MCMAHON, :
 : **LS** _____
 :
RESPONDENT. :

Division of Enforcement Case No. 08 APP 008

It is hereby stipulated and agreed, by and between Jeffrey M. McMahon, 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 against Respondent's licensure and certification by the Division of Enforcement (08 APP 008). 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 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.

JEFFREY M. MCMAHON

Respondent

E4485 Theron Lane

Brookfield, WI 53005

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date