

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
:
ANN A. KALCIK, : LS08111910APP
RESPONDENT. :

Division of Enforcement Case File # 08 APP 012

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

Ann A. Kalcik
116 7th Avenue
Baraboo, WI 53913

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 (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 Ann A. Kalcik (Kalcik), whose last known address of record with the Department of Regulation and Licensing (Department) is 116 7th Avenue, Baraboo, WI 53913, and whose date of birth is January 7, 1954, possesses a certificate of licensure and a certificate of certification to practice as a certified general appraiser (#10-892). The certificate was first granted on October 20, 1997, and will expire on December 14, 2009.

2. In July of 2007, Ms. Kalcik conducted eight appraisals and signed seven appraisal reports for use in divorce proceedings between M.S. and C.S. The remaining appraisal report was not completed at the request of the client.

3. A review of two of the seven 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 2-2 (b)(i), which requires appraisers to, "state the identity of the client and any intended users, by name or type," by stating in the reports that the "lender" was the attorney for one of the parties, and that M.S. and C.S. were borrowers, rather than parties to a divorce litigation.

b. USPAP Standards Rule 2-2 (b)(ii), which requires appraisers to, "state the intended use of the appraisal," by failing to clarify that the intended use of the appraisals was for property settlement of a divorce litigation.

c. USPAP Standards Rule 2-2 (b)(viii), which requires appraisers to, "summarize the information analyzed... and the reasoning that supports the analysis," and USPAP Standards Rule 1-1(b), which requires an appraiser to, "not commit a substantial error or omission or commission that significantly affects an appraisal," by failing to adequately analyze the characteristics of the subject properties and to summarize the information and reasoning when reporting that the effective ages of the subject properties were 15 and 20 years, while the actual ages of the properties were 58 years and reported as being in "average" condition.

d. USPAP Standards Rule 1-1(c), which prohibits appraisers from, "making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those

results” by making erroneous adjustments for central air conditioning.

- e. USPAP Standards Rule 2-2(b)(ix) by failing to summarize and report a highest and best use analysis.
- f. USPAP Standards Rule 2-2(b)(viii) and 1-1(b) by failing to summarize the reasoning supporting adjustments for the number of bedrooms; failing to report, address or otherwise adjust for the use of part of one comparable sales as commercial space; and failing to provide comparable rentals for a residential rental property.
- g. USPAP Standards Rule 2-2(b)(iv) by incorrectly reporting the land interests valued as “fee simple” when the properties were subject to leases and, therefore, should have been reported as “leased fee.”

4. 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.”

5. 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.”

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 report that does not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, **Ann A. Kalcik** 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 license and certification of Ann A. Kalcik (license # 10-892), shall be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. Ann A. Kalcik shall successfully complete the following courses as remedial education: (a) one of the following - Residential Sales Comparison Approach (30 hours) or General Appraiser Income Approach Part I or Part II (30 hours); AND (b) one of the following – Income valuation of Small, Mixed Use Properties (16 hours) or Sales Comparison Valuation of Small, Mixed-Use Properties (16 hours). Courses completed in compliance with this Order may not be counted towards Respondent’s continuing education requirements. Successful completion of any course shall include receipt of a passing score on any examination. Proof of completion of all courses must be submitted to the Department Monitor by December 1, 2009. Substitute courses shall only be allowed if approved in advance by the Board’s Monitoring Liaison.

3. Ann A. Kalcik shall pay the costs of investigating this matter, in the amount of **FOUR HUNDRED DOLLARS (\$400.00)** within sixty (60) days of the date of signing of this Order.

4. All submissions 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) 267-3817 Fax (608) 266-2264

5. Case number 08APP 012 is hereby closed.

6. 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 THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : STIPULATION
: :
ANN A. KALCIK, : LS _____
RESPONDENT. :

Division of Enforcement Case File # 08 APP 012

It is hereby stipulated and agreed, by and between Ann A. Kalcik, 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 by the Division of Enforcement (08 APP 012). Respondent consents to the resolution of this matter without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her 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 her 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.

Ann A. Kalcik, Respondent
116 7th Avenue
Baraboo, WI 53913

Date

Mark A. Herman, Attorney
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

Date