

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

| | | |
|-------------------------------|---|--------------------------|
| IN THE MATTER OF DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | FINAL DECISION AND ORDER |
| | : | |
| FREDERICK J. SCHILLING, | : | LS0812021REB |
| RESPONDENT. | : | |

Division of Enforcement Case File # 05 REB 139

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

Frederick J. Schilling
1724 Tall Grass Circle
Waukesha, WI 53188

Wisconsin Real Estate 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

A formal complaint has been filed in this matter. 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 Board (“Board”), in lieu of proceeding to a contested hearing. 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. Frederick J. Schilling is licensed in the State of Wisconsin as a Real Estate Salesperson with license #94-54488, first issued on April 3, 2002.
2. Mr. Schilling’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 1724 Tall Grass Circle, Waukesha, WI 53188.
3. On May 1, 2004, Mr. Schilling prepared a WB-36 Buyer Agency/Tenant Representation Agreement for David and Nancy Plennes. The addendum was dated and signed on May 3, 2004.
4. On May 13, 2004, Mr. Schilling prepared an Offer to Purchase for Mr. and Mrs. Plennes for property at 8282 Country Club Circle in Franklin, Wisconsin. The price offered was \$314,900.
5. The previous year’s tax assessment for the property by the City of Franklin was \$872.40 based on the \$33,000 value of the vacant lot.

6. Mr. Schilling was aware of the possibility of an increased tax assessment for 2004. Prior to closing, he reviewed the City of Franklin web site to see if there was a pending reassessment, and none was posted. Mr. Schilling did not call the city assessor's office.
7. At closing, taxes were prorated based on the 2004 assessment and the number of days remaining in 2004 when the transaction closed. The buyers were given a credit of \$548.23 against the 2004 real estate tax.
8. Mr. Schilling did not counsel his clients to include a contingency for increased taxes in the contract, nor did he prepare an amendment for such a contingency.
9. The City of Franklin issued a Certificate of Completion/Occupancy on August 16, 2004.
10. A copy of the 2004 tax assessment dated August 16, 2004 was sent to the seller and received on August 21, 2004.
11. The transaction closed on August 18, 2004.
12. The increased assessment appeared on the City of Franklin's web site some time between December 15, 2004 and December 23, 2004.
13. The 2004 property tax bill received by the Plenneses was \$7,581.16, based on a property value of \$283,400.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to section 452.14 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
2. Respondent Frederick J. Schilling is subject to discipline for failing to exercise reasonable skill and care in providing brokerage services to his clients, contrary to sec. 452.133 (1) (b), Wis. Stats., and sec. RL 24.025 (1), Wis. Adm. Code.

ORDER

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

IT IS FURTHER ORDERED that Frederick J. Schilling is hereby REPRIMANDED.

IT IS FURTHER ORDERED that Mr. Schilling pay part of the Department's costs of this matter in the amount of **THREE HUNDRED FIFTY DOLLARS (\$350.00)** 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 following address:

Department Monitor
Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Fax (608) 266-2264
Tel. (608) 267-3817

In the event Mr. Schilling fails to pay the costs within the time and in the manner as set forth above, his Real Estate Salesperson's 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 file 05 REB 139 be closed.

Dated this 30th day of April, 2009.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum, Board Chair