

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**
ROBERT A. OLSZEWSKI, :
: **LS09111118APP**
:
:
RESPONDENT. :

Division of Enforcement Case No. 07 APP 124

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

Robert A. Olszewski
P.O. Box 222
Mosinee, WI 54455

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). Respondent neither admits nor denies the allegations contained in the attached Final Decision and Order, but agrees that there is some evidence upon which the Board can make the Findings of Fact and Reach the Conclusions of law contained therein. 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 Robert A. Olszewski (Olszewski), whose last known address of record with the Department of Regulation and Licensing (Department) is P.O. Box 222, Mosinee, WI 54455, and whose date of birth is September 21, 1951, possesses a certificate of licensure and a certificate of certification as a Certified General Appraiser (#10-365). The license was first granted on January 21, 1993, and will expire on December 15, 2009.

2. Between September 1, 2006 and September 15, 2006, Mr. Olszewski conducted and signed one or more reports and certification statements for an appraisal of real property located at 801 Fignon Lane, Mosinee, WI, with an effective date of September 1, 2006.

3. A review of the Mosinee 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 2-2(b)(i), by failing to explicitly identify the intended users in the report. In all cases the Board considers it unacceptable for appraisers to require the reader of appraisal reports to infer the identity of the client and intended users from a standard form report (*see Statement on Appraisal Standards 9, lines 3036-3050 of the USPAP 2006 Edition*).
- b. USPAP Standards Rule 2-2(b)(ii), by failing to explicitly identify the intended use of the report. In all cases the Board considers it unacceptable for appraisers to require the reader of appraisal reports to infer the intended use from a standard form report (*see Statement on Appraisal Standards 9, lines 3060-2066 of the USPAP 2006 Edition*).

- c. USPAP Standards Rule 1-4 (a) and 2-2(b)(viii), by failing to properly support the site size adjustments used in the report. Mr. Olszewski did provide vacant land sales as support for his site size adjustments. However, the manner in which he calculated the site size adjustment contained both factual and conceptual errors.
- d. USPAP Standards Rule 1-4 (c) and 2-2(b)(viii), by indicating that the income approach to value was inappropriate, despite the fact that an income approach was developed, and the intended user planned to use the property as an income property.
- e. USPAP Standards Rule 2-2(b)(viii), by failing to summarize his analysis of the agreement of sale in the report. The (unsigned) offer to purchase contained in Mr. Olszewski's work file stated that the sales price was \$109,000. According to the Marathon County Land Record, the property sold on 9/22/06 for a price of \$135,000.00. The value opinion arrived at was \$139,000. Mr. Olszewski has provided an analysis in the course of this investigation, but should have summarized that analysis in the appraisal report.

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, **Robert A. Olszewski** has committed five or more violations of 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 **Robert A. Olszewski** (#10-365) shall be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. **Robert A. Olszewski** shall complete no less than THIRTY (30) hours of remedial education within ONE (1) YEAR of the date of signing of this Order, which shall consist of one or more of the following topics, with specific courses to be approved in advance by the Board's Monitoring Liaison: (a) Appraisal Procedures for Certified General Appraisers; and (b) Appraisal Report Writing. 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. **Robert A. Olszewski** shall pay costs of these investigations in the amount of SEVEN HUNDRED DOLLARS (\$700.00) within one (1) year 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) 267-3817, Fax (608) 266-2264

5. Case number 07 APP 124 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 education the Respondent's license and certification (#10-365) 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

11/11/09
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
ROBERT A. OLSZEWSKI,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 07 APP 124

It is hereby stipulated and agreed, by and between Robert A. Olszewski, 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 (07 APP 124). 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. *Respondent neither admits nor denies the allegations contained in the attached Final Decision and Order, but agrees that there is some evidence upon which the Board can make the Findings of Fact and Reach the Conclusions of law contained therein.*
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.

ROBERT A. OLSZEWSKI, Respondent
P.O. Box 222
Mosinee, WI 54455

Date

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

Date