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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

GATLIN D. FENWICK,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0000 538

Division of Enforcement Case No. 09 APP 095

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Gatlin D. Fenwick
1510 21st St
Reedsburg, WI 53959

Wisconsin 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

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 Real Estate Appraisers Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Gatlin D. Fenwick is a duly licensed appraiser, and holds a certification as a certified general appraiser and licensed appraiser in Wisconsin (#10-1363), which was first granted on 1/29/05 and is current through 12/14/11. Mr. Fenwick's most recent address on file with the Wisconsin Department of Regulation and Licensing ("Department") is 1510 21st St, Reedsburg, WI 53959.
2. On or about 11/13/2009, the Department received a complaint against Mr. Fenwick. The complaint alleged various issues that called into question two appraisals of property located at 320 Willow St, Arena, WI 53503 ("Subject Property").

3. Mr. Fenwick was hired by LSI East Broker Appraisal to perform an appraisal of the subject property on behalf of its client Metro Mortgage. On or about 8/18/09, Mr. Fenwick performed an appraisal, submitting an initial report (8/09 report) valuing the Subject Property at \$58,000.
4. Following a request that he consider additional comparable properties, Mr. Fenwick submitted a second report (10/09 report) revaluing the Subject Property at \$75,000. This report was also based on the appraisal done on or about 8/18/09.
5. The two appraisal reports were reviewed by the Department and it was determined that the appraisal (and the accompanying reports) violated the Uniform Standards of Professional Appraisal Practice (USPAP) in the following respects:
 - a. Standards Rules 1-1, 2-1, Ethics Rule, Conduct Rule, and Competency Rule by failing to provide support for the 29% increase in the value opinion between the 8/09 and 10/09 reports where the condition of the Subject Property is identical and the effective date is the same. It is impossible for a single property in identical condition to be worth two such different amounts as of the same date.
 - b. Standards Rules 1-2(c) and 2-2(b)(v) by failing to provide an opinion of reasonable exposure time linked to the value opinion.
 - c. Standards Rules 1-2(e) and 2-2(b)(iii) by failing to provide a complete legal description. Respondent provided only a partial legal description while the complete description was in his work file.
 - d. Standards Rules 1-2(g) and 2-2b(x) by preparing the 8/09 report "as is," but including within the same section the statement "Roof replaced and broken windows repaired," indicating an intent to require a new roof and window repair. The 10/09 report indicates the value opinion employs the hypothetical condition of a new roof and window repair.
 - e. Standards Rules 1-3(b) and 2-2b(xi) by failing to provide a Highest and Best Use analysis; simply checking a box on a form does not constitute analysis.
 - f. Standards Rules 1-4(a) and 2-2b(viii) by failing to identify comparable 1 as a manufactured house, which typically requires a quality adjustment. At a minimum, it must be identified as such in the report. Additionally, the explanation for the adjustments made on the remaining comparables does not explain how the numbers were arrived at. Condition adjustments are large (up to 50 % of the value of the property in the 8/09 report) yet are not explained. Further, the adjustments for baths, GLA, basements, fireplaces and garages are far below the market norms for the area. There is no indication whether adjustments for location are considered. The report fails to consider that comparable 3 is an REO, comparable 4 is an REO on the MLS sheet, and comparable 5 is a short sale on the MLS sheet. Finally, the adjusted ranges used (\$51,700-\$80,500 for the 8/09 report and \$51,700-\$103,385 for the 10/09 report) are too wide to be considered reliable.

- g. Standards Rules 1-4(b) and 2-2(b)(viii) by failing to provide any meaningful support for the concluded land value. The “assessment extraction method” is not an appropriate appraisal method, and the cost approach is not applicable, as depreciation is concluded to be 42%.
- h. Standards Rules 1-4(c) and 2-2b(viii) by failing to provide a valid reason for not completing the income approach. The report cites the fact that the Subject Property is not currently rented as the reason it was not used; the appropriate inquiry is whether the market views the Subject Property as having rental potential.
- i. Standards and Rules 1-6 and 2-2b(viii) by failing to reasonably justify the different concluded value opinions between the 8/09 report and the 10/09 report. The primary difference between the two reports is the addition of one comparable and a change of the condition adjustment for Sale 1 by \$15,000. Also, where the two approaches in the 8/09 report are more than 40% apart, it is unreasonable to conclude that a cost approach value of \$81,750 is “supportive of” the \$58,000 value.
- j. Standards and Rules 2-2 by misidentifying the reporting option used. The 8/09 and 10/09 reports are identified as “summary” reports; however, the lack of analysis and description of required elements requires them to be identified as “restricted” reports.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26, and is authorized to enter in the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. The conduct described above in paragraphs 3-5 constitutes a violation of:
 - a. Standards Rules 1-1, 2-1, Ethics Rule, Conduct Rule, and Competency Rule;
 - b. Standards Rules 1-2(c) and 2-2(b)(v);
 - c. Standards Rules 1-2(e) and 2-2(b)(iii);
 - d. Standards Rules 1-2(g) and 2-2b(x);
 - e. Standards Rules 1-3(b) and 2-2b(xi);
 - f. Standards Rules 1-4(a) and 2-2b(viii);
 - g. Standards Rules 1-4(b) and 2-2(b)(viii);
 - h. Standards Rules 1-4(c) and 2-2(b)(viii);
 - i. Standards and Rules 1-6 and 2-2b(viii); and
 - j. Standards and Rules 2-2.
3. As a result of the above USPAP violations, Mr. Fenwick is deemed to have also violated Wis. Admin. Code § RL 86.01(2), thereby subjecting himself to discipline pursuant to Wis. Admin. Code § RL 86.01(1) and Wis. Stat. § 458.26(3)(b) and (c).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of Respondent **Gatlin D. Fenwick** (#10-1363) is hereby **LIMITED** as follows:
 - a. Gatlin D. Fenwick shall, within one year of the date of this Order, successfully complete the National USPAP Course (15 hours) and at least thirty (30) additional hours of continuing education from among the following courses offered by the Appraisal Institute, or equivalent courses by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courmnses:
 - i. Residential Report Writing and Case Studies (15 hrs.)
 - ii. Advanced Residential Application and Case Studies/Part 1 (15 hrs.)
 - iii. Advanced Residential Report Writing/Part 2 (30 hrs.)
 - b. Mr. Fenwick shall submit proof of completion in the form of verification from the institution providing the education to the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.
2. **Gatlin D. Fenwick** shall, within 120 days of the date of this Order, pay **COSTS** of this matter in the amount of **THREE HUNDRED AND TEN DOLLARS (\$310.00)**.
3. Proof of successful course completion, payment of costs (**certified check or money order** made payable to the Wisconsin Department of Regulation and Licensing), and any petition for removal or modification of the limitations, shall be mailed, faxed or delivered by the Respondent to the Department Monitor at this address:

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

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The 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 Respondent fails to timely submit payment of the costs as ordered or fails to comply with the ordered continuing education as set forth above, the Respondent's license (#10-1363) may, in the discretion of the board or its designee, be **SUSPENDED**, without further

notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

5. This Order is effective on the date of its signing.
6. File 09 APP 095 is hereby closed.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:


A Member of the Board

11/10/2010
Date