

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOY A. NEWTON,
RESPONDENT.

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FINAL DECISION AND ORDER

0005953

Division of Legal Services and Compliance Case No. 15 APP 058

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

Joy A. Newton
208 Evergreen Street
Dousman, WI 53118

Wisconsin Real Estate Appraisers Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

PROCEDURAL HISTORY

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Division of Hearing and Appeals on July 3, 2018. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the 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. Respondent Joy A. Newton (DOB 02/17/1969) is certified by the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1721-9, first issued on December 18, 2008 and current through December 14, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 208 Evergreen Street, Dousman, Wisconsin 53118.

2. On October 18, 2006, the Board reprimanded Respondent and ordered her to pay a \$500 forfeiture for failing to comply with continuing education requirements. (Order No. LS06101822APP).

3. On October 29, 2015, Respondent performed an appraisal of property located at 2200 Milwaukee Street, Delafield, Wisconsin 53018.

4. On or about December 1, 2015, the Department received a complaint alleging that the subject appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP). The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 15 APP 058 for investigation.

5. Respondent's appraisal was reviewed by DLSC and it was determined that the appraisal and appraisal report violated the USPAP Rules and/or Standards Rules (SR) as follows:

a. In the Improvement section, Respondent misreported the subject property's gross living area. Respondent sketch of the perimeter did not correctly depict the subject property's first floor. [Scope of Work Rule, SR 1-1(b), SR 1-2(e)(i).]

b. In the Cost Approach section, Respondent reported the estimated land value at \$150,000 but gave no explanation regarding how the site value was determined. [Scope of Work Rule, SR 1-4(b)(i), SR 2-1(b).]

c. In the Cost Approach section, Respondent included some references to other land sales or listings in her workfile, however, Respondent provided no analysis of the 2013 prior sale and demolition of the previous house on the subject property when determining site value. [Scope of Work Rule, SR 1-4(b)(ii), SR 1-5(b), SR 2-1(b).]

6. In response to the issues identified by DLSC Case No. 15 APP 058, Respondent successfully completed fifty-one (51) hours of education between September 13, 2018 and September 29, 2018, as follows:

a. USPAP (15 hours),

b. Advance Residential Applications and Case Studies (15 hours),

c. The Sales Comparison Approach (7 hours),

d. The Cost Approach (7 hours), and

e. ANSI, Home Measurements, & Power of Price-Per-Square-Foot (7 hours).

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Joy A. Newton violated the USPAP Scope of Work Rule by failing to determine and perform the scope of work necessary to develop credible assignment results.

3. By the conduct described in the Findings of Fact, Joy A. Newton violated USPAP SR 1-1(b) by committing a substantial error of omission or commission that significantly affected an appraisal.

4. By the conduct described in the Findings of Fact, Joy A. Newton violated USPAP SR 1-2(e)(i) by failing to identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including its location and physical, legal, and economic attributes.

5. By the conduct described in the Findings of Fact, Joy A. Newton violated USPAP SR 1-4(b)(i) by failing to develop an opinion of site value by an appropriate appraisal method or technique when the cost approach is necessary for credible assignment results.

6. By the conduct described in the Findings of Fact, Joy A. Newton violated USPAP SR 1-4(b)(ii) by failing to analyze such comparable cost data as was available to estimate the cost new of the improvements when the cost approach is necessary for credible assignment results.

7. By the conduct described in the Findings of Fact, Joy A. Newton violated USPAP SR 1-5(b) by failing to analyze all sales of the subject property that occurred within the three years prior to the effective date of the appraisal.

8. By the conduct described in the Findings of Fact, Joy A. Newton violated USPAP SR 2-1 (b) by failing to include in her appraisal report sufficient information to enable the intended users of the appraisal to understand the report properly.

9. As a result of the above violations, Joy A. Newton violated Wis. Admin. Code § SPS 86.01(1) and (2), and is therefore subject to discipline pursuant to Wis. Stat. § 458.26(3)(b), (c) and (i).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Joy A. Newton is REPRIMANDED.

3. Within ninety (180) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$5,640.

4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. In the event Respondent violates any term of this Order, Respondent's certificate of licensure and certification (number 1721-9), or Respondent's right to renew her certificate of licensure and certification, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

6. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: Carl Clementi
A Member of the Board

11/13/18
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOY A. NEWTON,
RESPONDENT.

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:

STIPULATION

0005953

Division of Legal Services and Compliance Case No. 15 APP 058

Respondent Joy A. Newton and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

1. This Stipulation is entered into as a result of a pending proceeding with the Division of Legal Services and Compliance. Respondent consents to the resolution of this proceeding by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin 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 Legal Services and Compliance for further proceedings. In the event that the 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 Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

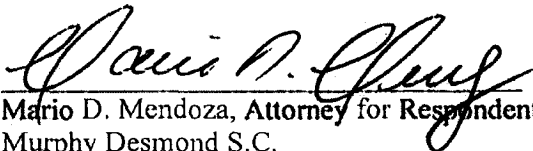
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



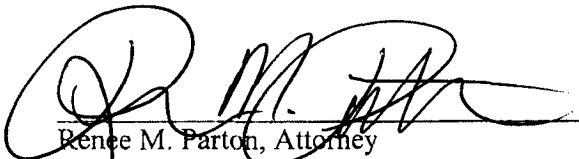
Joy A. Newton, Respondent
208 Evergreen St.
Dousman, WI 53118
Credential no. 1721-9

11/5/18
Date



Mario D. Mendoza, Attorney for Respondent
Murphy Desmond S.C.
33 East Main Street, Ste 500
Madison, WI 53703

11/5/2018
Date



Renee M. Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

11/5/2018
Date