

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION :	:	
TO PRACTICE AS A CERTIFIED	:	
RESIDENTIAL APPRAISER OF	:	FINAL DECISION
	:	AND ORDER
ANDREW J. TILLMANN,	:	LS0610192APP
APPLICANT.	:	

[Division of Enforcement Case No. 06APP109]

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition of judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 20th day of March, 2007.

Celia M. Jackson
Secretary
Department of Regulation and Licensing

IN THE MATTER OF THE APPLICATION :
TO PRACTICE AS A CERTIFIED :
RESIDENTIAL APPRAISER OF :
: PROPOSED DECISION
: AND ORDER
ANDREW J. TILLMANN, :
APPLICANT. : Case No. LS0610192APP
:
:

[DOE Case File #06APP109]

The parties to this action for purposes of §227.53, Wis. Stats., are:

Mr. Andrew J. Tillmann
5191 4th Avenue
Duluth, MN 55803

Department of Regulation and Licensing
Division of Professional Credentialing Processing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
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PROCEDURAL HISTORY

Following the denial of his application for a certified residential appraiser credential, Andrew J. Tillmann requested a hearing in the above-captioned matter. A hearing was held on January 24, 2007, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by Attorney Lara M. Herman. Mr. Tillmann appeared *pro se*.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Department of Regulation and Licensing adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Andrew J. Tillmann (dob 9/25/73) applied for a certified residential appraiser license on or about September 20, 2005. His most recent address on file with the Department Regulation and Licensing is 5191 4th Avenue in Duluth, Minnesota.
2. The application for a Certified Residential Appraiser requires that the applicant submit three real estate appraisals for review. The Department determined that one of the appraisals Mr. Tillmann submitted for property located at 2415 150th Street in Luck, Wisconsin, did not meet the Uniform Standards of Professional Appraisal Practice (USPAP). As a result, Mr. Tillmann's application was denied on August 3, 2006.
3. Marla Britton is a Wisconsin Certified General Appraiser and is also a member of the Department of Regulation and Licensing's Real Estate Appraisers Application Advisory Committee. Ms. Britton reviewed the work samples Mr. Tillmann submitted with his application and provided the following comments regarding the appraisal for the property located at 2415 150th Street in Luck, Wisconsin:

According to the legal description of the subject property, the property is potentially a condominium. In discussions with the local assessor's office, the property was a condominium that was converted to a 2-unit property. This information should have been included in the report to assist the reader in understanding the legal ownership of the property. Additionally, in discussing the property with the assessor, the assessment records show that the property was originally constructed in 1980 and remodeled in 2001. Thus the subject property does not have a 2001 year built as indicated in the appraisal. This information should have been disclosed within the appraisal report. The incorrect year built (as the age of the subject is relied upon significantly in the appraisal report) creates a misleading appraisal report with an inflated value. According to the assessor's office the property is currently for sale for \$200,900 after the lender repossessed the property. This appraisal report violates the following USPAP Standards: SR1-2(g), SR 2 & Ethics Rule, SR 2-2(a,b,c)-(iii), SR2-2 (a,b,c)-(viii).

4. Following the denial of his application, Mr. Tillmann filed a timely request for a hearing.

CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this matter pursuant to § 458.03 (1), Wis. Stats.
2. Andrew J. Tillmann's appraisal report as identified in Finding of Fact #2 did not comply with the Uniform Standards of Professional Appraisal Practice as required by § 458.08, Wis. Stats., and §§ RL 83.01 (2) and (3), Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Andrew J. Tillmann's application denial for a certified residential appraiser be **AFFIRMED**.

OPINION

At issue is whether the denial of Mr. Tillmann's application for licensure as a Certified Residential Appraiser should be affirmed based on the appraisal report that he submitted for review with his application. Under § 458.08 of the Wisconsin Statutes and §§ RL 83.01 (2) and (3) of the Wisconsin Administrative Code, appraisal reports are required to comply with the Uniform Standards of Professional Appraisal Practice (USPAP). Mr. Tillmann's application for licensure was denied because one of the appraisal reports he submitted for review allegedly did not meet the USPAP standards.

As part of the application process for becoming a Certified Residential Appraiser, individuals must submit three real estate appraisals for review. Mr. Tillmann submitted the required appraisals, and the Department of Regulation and Licensing (Department) determined that one of them did not meet the USPAP standards. The property in question is located at 2415 150th Street in Luck, Wisconsin, in Polk County. As a result of Mr. Tillmann's appraisal of that property, his application was denied on August 3, 2006.

Marla Britton is a Wisconsin Certified General Appraiser and is also a member of the Department of Regulation and Licensing's Real Estate Appraisers Application Advisory Committee. Ms. Britton reviewed the work samples Mr. Tillmann submitted with his application and determined that the appraisal completed for the property located in Luck, Wisconsin, was not in compliance with the USPAP standards. Ms. Britton concluded that the appraisal failed to include an "extraordinary assumption," namely that the property was a duplex despite a contrary legal description. She also noted that the age of the property was incorrect. The rest of the review panel concurred with Ms. Britton's conclusions, and Mr. Tillmann's application was therefore denied. (Tr. at 19.)

Mr. Tillmann maintains that his application should not have been denied. He believes that the legal description provided for the property in question was reasonably accurate since he relied upon information supplied to him by Polk County officials for his report. He further asserts that because the report was not written on a condominium appraisal report form and because he mentioned elsewhere in the document that it was a multi-family duplex rather than a condominium as the legal description states, that his oversight is not a significant one. (Tr. at 54.) Additionally, Mr. Tillmann defended the identified age of the dwelling based upon his observations of the interior, which included newer flooring, ceramic tile, electrical service, kitchen countertops and cabinetry, walls, fixtures, and other like items. (Tr. at 58.) He also received information from two different sources which confirmed his understanding of the building's age. (Tr. at 68.)

In contrast, Ms. Britton firmly disagreed with Mr. Tillmann's explanation. She testified that because the legal description identified the property as being a condominium Standard SR 1-2 (g) of the USPAP was invoked. By invoking that provision, Mr. Tillmann was obligated to include an explanation in his report about the characteristics typical of condominium ownership. (Tr. at 29.) Under Standard SR 1-2 (g), an appraiser is required to identify any "extraordinary assumptions" in his report. According to Ms. Britton, that meant Mr. Tillmann was required to explain why the legal description identified the property as a condominium, but the report referred to it as a duplex (or two-unit property) and was valued as such. (Tr. at 27.) In other words, Mr. Tillmann should have directly acknowledged in his report that he was making the "extraordinary assumption" that the property was, in fact, a duplex and that he was valuing it as one, rather than as a condominium as the legal description indicated. In so doing, he would have provided proper notification to the reader as to the basis of his values which, in turn, would have allowed him to make any necessary corrections to the property's value at a later date. (Tr. at 91-92.) By failing to include this critical piece of information, he was in violation of the USPAP provisions, specifically, Standard SR 1-2 (g).

Another issue that arose during the denial hearing involved the age of the property. However, Ms. Britton readily admitted that the age of the property, while apparently incorrect in the report, was not a critical aspect of the basis for denial. Rather, it was secondary to the issue surrounding the form of ownership. As Ms. Britton noted, had Mr. Tillmann provided even a brief explanation for the reader as to why the property was valued as a duplex when the legal description identified it as a condominium, he would have satisfied the USPAP requirements. (Tr. at 101.) But because that critical piece of information

was not included and because such information was required to be included under the 2004 USPAP standards and under § 458.08, Wis. Stats., and §§ RL 83.01 (2) and (3), Wis. Admin. Code., the decision to deny Mr. Tillmann's application was reasonable and is therefore affirmed.

Dated at Madison, Wisconsin, this 28th day of February, 2007.

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DEPARTMENT OF REGULATION & LICENSING
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Jacquelynn B. Rothstein
Administrative Law Judge