

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

JOHN M. THOMPSON,

RESPONDENT.

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:

FINAL DECISION AND ORDER

LS0808138APP

Division of Enforcement Case No. 07 APP 057

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

John M. Thompson
N63W37832 Ramsgate Court
Oconomowoc, WI 53066

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. 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 John M. Thompson ("Thompson"), whose last known address of record with the Department of Regulation and Licensing ("Department") is N63W37832 Ramsgate Court, Oconomowoc, WI 53066, and whose date of birth is September 27, 1955, possesses a certificate of licensure and a license as a licensed appraiser (#4-1116). The license was first granted on June 4, 1998, and will expire on December 14, 2009.

2. On October 8, 2002, Mr. Thompson signed an appraisal report with an effective date of October 4, 2002, regarding real property located at W254N4957 McKerrow, Lisbon, WI ("subject property").

3. The property owners claim that an Ameriquest representative told them that the appraisal would be "high" to facilitate the loan. There is no direct evidence that this information was conveyed to Mr. Thompson. In 2002 Mr. Thompson valued the property at \$335,000. In 2004 the subject property was sold for \$275,000. Mr. Thompson denies inflating the appraisal.

4. The appraised property was unique in that the property had a lower level, the perimeter of which was more than 2/3 exposed, with entrances in both the front and rear of the lower level, leaving less than 1/3 below grade. The unique configuration of the property presented the appraiser with an unusual appraisal problem in terms of generating appropriate comparable sales.

5. Mr. Thompson agrees that comparable sale #2 was not an appropriate comparable sale, and, since used, substantial adjustments should have been made for differences in quality of construction. Selection of an inappropriate comparable sale is a violation of USPAP Standards Rule 1-1(a).

6. Mr. Thompson used as comparable sales traditional two story homes with full basements, one of which had an undetermined amount of finished space. Mr. Thompson made uniform lump-sum adjustments for differences in below-grade finished area and below-grade unfinished area, regardless of the vary sizes of the comparable sales. Assuming for the sake of argument that a lump-sum approach can be supported by market data in some cases, the use of a lump-sum approach in this case was inappropriate because it cannot be supported by market data. This impossibility is caused by the extreme differences in size of the areas of the subject that were considered to be below-grade by the appraiser (144 for the subject v. 1800-2400 for the comparable sales). The use of the lump-sum approach for unfinished below-grade area yielded adjustment rates of less than \$2.50 sq./ft for unfinished area, which cannot be supported by market data. The use of the lump-sum approach for finished below grade area of undetermined size yields an undeterminable adjustment rate for finished below grade area. The use of the lump-sum approach substantially impacted the market value opinion of the subject property. The use of a lump-sum approach in this case is a violation of USPAP Standards Rule 1-1(a).

7. 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.

8. 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."

9. On June 7, 2007, a Division of Enforcement ("DOE") investigator assigned to this matter sent Mr. Thompson a letter requesting information. On June 21, 2007, the same investigator attempted to contact Mr. Thompson by telephone. On July 13, 2007, the same investigator re-sent the letter dated June 7. On August 22, 2007, a subpoena was returned to the investigator after Mr. Thompson failed to respond to notices left at his residence telling him to contact the Waukesha County Sheriffs Department. Ultimately, Mr. Thompson did not respond to DOE requests for information until October 17, 2007, more than four months after the first request for information was sent. Mr. Thompson has offered no reasonable explanation for his failure to respond to DOE's requests for information.

10. Per Wis. Admin. Code § RL 86.01(10), a "licensed appraiser shall cooperate in a timely manner with the Board's investigation of a complaint... There is a rebuttable presumption that a licensed... appraiser who takes longer than 30 calendar days to respond to a request for information by the board has not acted in a timely manner under this subsection."

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 an appraisal and rendering an appraisal report that does not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraphs 5 and 6 of the Findings of Fact, **John M. Thompson** has committed two or more violations of Wis. Admin. Code § RL 86.01 (2), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b).

4. By failing to cooperate in a timely manner with the Department of Regulation and Licensing's requests for information, as set forth more fully above in paragraph 9 of the Findings of Fact, **John M. Thompson** has committed one or more violations of Wis. Admin. Code § RL 86.01 (10), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of **John M. Thompson** (# 4-1116) shall be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. **John M. Thompson** shall successfully complete the following as remedial education:
(a) Residential Report Writing and Case Studies, offered by the Appraisal Institute; OR (b) Residential Market Analysis and Highest and Best Use, offered by the Appraisal Institute OR (c) a course substantially similar to one of these two courses, if approved in advance by the Board's Monitoring Liaison. Successful completion of these courses will include successful

completion of any testing component, if offered. Education required by this paragraph must be completed within one year of the date of signing of this Order, and may not be counted towards Mr. Smith's continuing education requirements

3. **John M. Thompson** shall pay costs of this investigation in the amount of ONE THOUSAND FIVE HUNDRED AND FIFTY DOLLARS (\$1,550.00) on or before December 1, 2009.

4. **John M. Thompson** shall pay a forfeiture in the amount of TWO HUNDRED AND FIFTY DOLLARS (\$250.00) within thirty (30) days of the date of signing of this Order.

5. Proof of completion of coursework and payment of costs shall be mailed, faxed, delivered or otherwise transmitted

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

6. Case number 07 APP 057 is hereby closed.

7. 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 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, the Respondent's license and certification (#4-1116) SHALL BE SUSPENDED, without further notice or hearing, until such time as Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A Member of the Board

8/13/08
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

| | | |
|--------------------------------|---|-------------|
| IN RE DISCIPLINARY PROCEEDINGS | : | |
| AGAINST | : | |
| | : | STIPULATION |
| JOHN M. THOMPSON, | : | |
| | : | LS _____ |
| | : | |
| RESPONDENT. | : | |

Division of Enforcement Case No. 07 APP 057

It is hereby stipulated and agreed, by and between John M. Thompson, 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 057). 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.
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.

JOHN M. THOMPSON

Respondent

N63w37832 Ramsgate Court
Oconomowoc, WI 53066

Date

MARK A. HERMAN

Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date