

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : **FINAL DECISION AND ORDER**
 :
MARK D. MAUERSGBERGER. : **LS0810305REB**
RESPONDENT. :
 :

[Division of Enforcement Case File #: **06 REB 039**]

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

Mark D. Mauresberger
3392 Brooks Drive
Sun Prairie, WI 53590

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

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 disposition of this matter, subject to the approval of the Wisconsin Real Estate Board (“Board”). Respondent denies the allegations in this matter, but is willing to settle this matter and agrees to the adoption of the attached Final Decision and Order by 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

1. Mark D. Mauersberger, date of birth 04-11-68, is licensed in the State of Wisconsin as a real estate salesperson having license #94-45462. This license was first granted on 06/27/96.
2. Mr. Mauersberger’s last reported business address on file with the Department of Regulation and Licensing (“Department”) is: 3392 Brooks Drive, Sun Prairie, WI 53590. Mr. Mauersberger is currently employed as a real estate salesperson at Prudential Community Realtors LLC (license #91-701211; granted: 07/28/05).
3. At all times relevant to the facts stated below, Mr. Mauersberger was employed as a real estate salesperson at The Stark Realty Company (#91-30722), located at 2980 Arapaho Drive, Madison, Wisconsin 53719. This license was first granted to the business entity on 01/09/84.
4. On or about February 13, 2006, the Department received a consumer complaint alleging Mr. Mauersberger

had failed to disclose a material adverse fact in regards to the property the Complainant had purchased. Specifically, the Complainant alleged that Mr. Mauersberger failed to disclose that there was a defective retaining wall that had been repaired and that the condominium association was expected to cover the costs of the repairs. The matter was subsequently opened for investigation.

5. On Memorial Day weekend in May 2004, a retaining wall located within the Selkirk Drive condominiums collapsed for a second time. Mr. Mauersberger was a listing agent for condominium units located within the structure where the retaining wall was located. Mr. Mauersberger was first notified of the retaining wall collapse by one of the residents living in property located within the condominiums.

6. The Complainant's condominium association ("Selkirk Condominium Association") of eight units was responsible for the reconstruction costs of the retaining wall and the wall was repaired on or about June 28, 2004. Reconstruction costs of \$15,100 were assessed to the Complainant's condominium association.

7. On June 25, 2004, Mr. Mauersberger had a listing contract with the seller of a condominium located within Wyndham Prairie, at 3077 Selkirk Drive, Unit A, Sun Prairie, Wisconsin ("Property"). The Property would be affected by the special assessment. The listing contract did not mention any additional information in regards to an increase in condominium association fees or a special assessment from the reconstruction of the wall. The Seller of the Property was aware of the special assessment but did not disclose the information on the Property Condition Report.

8. On or about October 7, 2004, Complainant's real estate agent submitted an Offer to Purchase a Condominium ("Offer") on the Property. The Offer was submitted to Mr. Mauersberger, who was representing the seller of the Property. After Counter-Offer was made between the parties, the Offer was accepted on October 12, 2004. The original closing date for the real estate transaction was scheduled to take place no later than November 15, 2004. Shortly after closing, the Complainant moved onto the Property. None of the documents mentioned any additional information in regards to an increase in condominium association fees or special assessment from the reconstruction of the wall. The Selkirk Condominium Association did not articulate to the Complainant's Buyer Agent that a special assessment was forthcoming.

9. During the Department's investigation, Mr. Mauersberger's real estate salesperson's license expired on January 1, 2007. At the time Mr. Mauersberger's license expired, Mr. Mauersberger was transferring from one real estate company to another. During the transfer, Mr. Mauersberger's renewal information was not forwarded to the new real estate company. The license was not renewed until February 20, 2007.

10. Mr. Mauersberger has been cooperative with the Department during the course of this disciplinary action.

11. In resolution of this matter, the Respondent, Mark D. Mauersberger consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14.
2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
3. Respondent, Mark D. Mauersberger has violated:
 - a. Wis. Stats. §§ 452.14(3)(b)(i)(k) and Wis. Admin. Code § RL 24.03(2)(b); 24.07(2)(3); by failing to disclose a material adverse fact in writing and in a timely fashion. The reconstruction costs of the retaining wall are a material adverse fact that should have been disclosed in writing and prior to the Complainant submitting an Offer to Purchase the Property in question.
 - b. Wis. Stat. 452.03 by inadvertently engaging in the practice of real estate with an expired license between January 1, 2007 and February 20, 2007.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that Respondent, license # 094-45462 be, and hereby is **REPRIMANDED**.

IT IS FURTHER ORDERED that the Respondent pay to the Department of Regulation and Licensing **COSTS** of **FIVE HUNDRED DOLLARS (\$500.00)**.

IT IS FURTHER ORDERED that the Respondent pay to the Department of Regulation and Licensing a **FORFEITURE** of **TWO HUNDRED FIFTY DOLLARS (\$250.00)**.

IT IS FURTHER ORDERED, that a down payment of **TWO HUNDRED FIFTY DOLLARS (\$250.00)** shall be submitted within sixty days (60) days from the date of this order and two more payments of **TWO HUNDRED FIFTY DOLLARS (\$250.00)** will due every sixty (60) days from the previous payment until the full **SEVEN HUNDRED FIFTY DOLLARS (\$750.00)** is paid. Payments shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent 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**

IT IS FURTHER ORDERED that in the event the Respondent fails to pay the **SEVEN HUNDRED FIFTY DOLLARS (\$750.00)** costs and forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent, his license #094-45462 shall be **SUSPENDED** without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said costs has been paid to the Department of Regulation and Licensing. Failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file **06 REB 039** be, and hereby is, closed as to Mark D. Mauersberger.

WISCONSIN REAL ESTATE BOARD

By: Peter A. Sveum
Member of Real Estate Board

10/30/08
Date