

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**  
**ADAM X. WRATHKEY,** : LS09081210APP  
RESPONDENT. :

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Division of Enforcement case file 08 APP 095

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Adam X. Wrathkey  
116 East Main Street  
Cambridge, WI 53523

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

### **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 Appraisers Board ("Board"). The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

### **FINDINGS OF FACT**

1. Adam X. Wrathkey is licensed in the State of Wisconsin as a Real Estate Appraiser with license number 4-1895, first issued on March 8, 2005.
2. Mr. Wrathkey's most recent address on file with the Department of Regulation and Licensing ("Department") is 116 East Main Street, Cambridge, WI 53523.
3. Mr. Wrathkey performed an appraisal and prepared an appraisal report for property at 22 Scranton Court in Madison, Wisconsin as of January 6, 2007. His estimate of value was \$240,000.
4. In his appraisal and his report, Mr. Wrathkey failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:
  - a. The report did not provide an opinion of reasonable exposure time linked to the value opinion, a violation of S.R. 1-2c Purpose and Reasonable Exposure Time and S.R. 2-2b(v) (see the comment below S. R. 1-2(c)(iv)).
  - b. There is no indication in the report regarding what the basement finish consists of or whether there is a bath, a violation of S.R. 1-2e Property Characteristics and S.R. 2-2b(iii).

c. No Highest and Best Use analysis is provided. Simply checking a box on a form does not constitute analysis, even though this is generally accepted practice when using the FNMA/FHLMC forms, a violation of S.R. 1-3b Highest and Best Use and S.R. 2-2b(ix).

d. The following are violations of S.R. 1-4a Sales Comparison Approach and S.R. 2-2b(viii):

- no explanation, rationale or support for the adjustments in the sales comparison approach, which merely state the obvious; e.g. garage \$2,000, etc.
- a reference to adjustments for a 3-season porch when it does not appear that any of the properties has a 3-season porch, so the reference is meaningless.
- a very low level of adjustments in general.
- inconsistent age adjustments between the Cost and Sales Comparison Approaches. In the Sales Comparison Approach, the adjustment is \$100 per year, whereas in the Cost Approach it is slightly more than \$1,000 per year.
- no indication in the report of whether or not the subject has an exposed basement. Five of the sales do and two do not, yet no adjustments are made to any of the comps. Adjustments are needed, with the sales and the direction of adjustment depending on whether or not the subject has an exposed basement.
- no bracketing of the subject with a smaller or older house. All of the comparable sales are significantly larger than the subject property. This is a neighborhood where there are several sales, with which one could properly bracket the subject.
- All of the following involve discrepancies between the cited sources of data, such as MLS or public records, and the report.
  - MLS says Sale 1 was 6 years old and the Assessor says it was built in 1999 (so it was 7 years old when it was sold in 2006), yet the report says it was 8 years old.
  - Sale 1 backs to green space, but there is no indication, discussion or adjustment in the report for this value-adding feature.
  - MLS says Sale 1 has a .75 bath in the basement but there is no indication in the report if the subject has one nor if consideration was given to this.
  - MLS says Sales 1 has an inground sprinkler system but there is no indication, discussion or adjustment in the report for this value-adding feature.
  - MLS shows Sale 2 has a .5 bath in the basement but there is no indication in the report if the subject has one nor if consideration was given to this.
  - The report indicates that there was no prior sale of Sale 2 in the past year, but the Assessor web site shows a transfer in 11/05 at \$249,900. The 11/05 transfer was to a relocation company and the 01/06 transfer was from the relocation company to an end buyer. USPAP does not require any reporting of prior sales of the comps, but the information in the report is incorrect according to Assessor records.
  - MLS says Sale 3 has a .75 bath in the basement but there is no indication in the report if the subject has one nor if consideration was given to this.
  - Sale 3 backs to green space, but there is no indication, discussion or adjustment in the report for this value-adding feature.
  - MLS says Sale 4 backs to a nature preserve, but there is no indication, discussion or adjustment in the report for this value-adding feature.
  - Sale 4 has a walk-out basement, but there is no indication, discussion or adjustment in the report for this value-adding feature, at least compared to Sales 1-3, and there is no indication in the report as to whether the subject has a walk-out basement.
  - Sale 4 is 52% larger than the subject and not appropriate to use as a comparable sale.

e. Under the cost approach, the report provides no support for the concluded land value -- which makes the report a restricted report, not a summary report -- there is no basement finish shown in the Cost Approach even though the report indicates that there is 700 sq. ft. of finish, and there is no explanation for how the physical depreciation was derived. These are violations of S.R. 1-4b Cost Approach and S.R. 2-2b(viii).

f. The income approach is not used, but there is no explanation for its omission. This is a violation of S.R. 1-4c. Income Approach and S.R. 2-2b(viii).

- g. The report says that there is no prior sale of the subject in the past 3 years, but the City Assessor web site clearly shows a transfer in 04/05 at \$189,200. This prior sale should have been included and analyzed. This is a violation of S.R. 1-5 Subject Listing and Sale Information and S.R. 2-2b(viii).
- h. The report mis-identifies the reporting option used by indicating that this is a “summary” report, when the lack of analysis and description of required elements (e.g., land sales, support and reasoning for adjustments, etc.), makes this a “restricted” report. This is a violation of S.R. 2-2 Reporting Options.
- i. The adjustment values used in the appraisal of \$15 per sq. ft. for above grade house size, \$.50 per sq. ft. for the lot, and \$100 per year for the age were not supported by paired sales analyses.
- j. The combination of selecting sales which are all larger and newer than the subject, making low adjustments, and the prior sales history for the subject leads to the conclusion that the value is significantly overstated.
- k. The estimate of value is exactly the amount requested by the lender in the Request for Appraisal.
- l. The combination of all of the violations and other concerns referenced above leads to the conclusion that USPAP has been violated, which is itself a violation of S.R. 1-1 Developing an Appraisal and S.R. 2-1 Report Not Misleading.

## **CONCLUSIONS OF LAW**

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
2. By failing to comply with USPAP in the appraisal and the appraisal report for property at 22 Scranton Court in Madison, Wisconsin, Respondent Adam X. Wrathkey violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, and is subject to discipline under section 458.26 (3), Wis. Stats.

## **ORDER**

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

IT IS FURTHER ORDERED that within six months of the date of this Order, the respondent, Adam X. Wrathkey, must successfully complete 30 hours of real estate appraisal education. Classes may be taken from the following list of Appraisal Institute courses, or they may be equivalent courses taken from any educational institution approved by the Department of Regulation and Licensing and approved in advance. None of the education completed pursuant to this order 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.

- Residential Sales Comparison and Income Approach - 30 hours
- Residential Report Writing and Case Studies - 15 hours
- Advanced Residential Appraisal and Case Studies - 15 hours
- Advanced Residential Report Writing, Part 2 - 30 hours

Mr. Wrathkey shall submit proof of successful completion in the form of verification from the institution providing the education to the following address:

Department Monitor  
Department of Regulation and Licensing,  
PO Box 8935, Madison, WI 53708-8935.  
Fax (608) 266-2264  
Tel. (608) 267-3817

In the event Mr. Wrathkey fails to successfully complete the educational requirements in the manner set forth, or to obtain an

extension of time for good cause, his Real Estate Appraisers license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until he provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Mr. Wrathkey pay the Department’s costs of this matter in the amount of **\$324** within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor. In the event Mr. Wrathkey fails to pay the costs within the time and in the manner as set forth above, his Real Estate Appraisers license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that file 08 APP 095 be closed.

Dated this 12<sup>th</sup> day of August, 2009.

**WISCONSIN REAL ESTATE APPRAISERS BOARD**

By: Marla Britton, Board Chair