

# 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**  
**ANTHONY DARGA,** : LS0911163APP  
RESPONDENT. :

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Division of Enforcement case file 08 APP 090

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

Anthony Darga  
9305 Durand Avenue  
Sturtevant, WI 53177

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 the 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. Anthony Darga is licensed in Wisconsin as a Real Estate Appraiser and he is certified as a Certified Residential Appraiser with license number 1713-9.
2. Mr. Darga’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 9305 Durand Avenue, Sturtevant, WI 53177.
3. Mr. Darga performed an appraisal and prepared an appraisal report for property at 3029 South 57<sup>th</sup> Street in Milwaukee, Wisconsin as of March 11, 2006. His estimate of value was \$186,000.
4. In his appraisal report, Mr. Darga failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules (S.R.) in the following ways:

Ethics Rule — Management - The appraisal order indicates an estimated value, and further states that the requester is to be contacted if the “estimated value is not supported by the subject market”. This suggests that the assignment may have been contingent on, 1) the reporting of a predetermined result, 2) the direction in assignment results that favors the cause of the client, 3) the amount of the value opinion or, 4) the occurrence of a subsequent event (loan closing).

Record Keeping — The original work file does not contain “all other data, information, and documentation...” The appraiser

subsequently provided additional data.

**Competency Rule** — The appraiser responded that being provided with an estimated value for a refinance, is no different from being provided with a purchase contract. This assertion is incorrect. A bona-fide purchase contract will commonly meet the definition and criteria of “market value”. A value estimate provided by a borrower or lender has nothing to do with market value. Common practice was that the EMV was an amount necessary to fund a loan, and therefore may impact the direction of the results. The appraiser responded that the borrower and lender did have some influence. Deficiencies exist in certain areas (cost approach), and additional education in these areas should be recommended to correct the issues and misconceptions.

**SR 1-1(a) and SR 2-2 (b) (ix)** — Although not likely necessary to produce credible results, the cost approach was nonetheless applied. Given its application, it is unlikely that a user could reproduce the reported results without additional, and more detailed information.

**SR 1-1(b) and SR 2-2 (b) (ix)** — The listing sheet for sale three indicates a finished rec room. The sales grid indicates no rec room and makes a positive \$5000 adjustment. Little or no adjustment appears warranted. The appraiser reviewed 15 sales in the neighborhood. Of these sales, only two exceeded the estimated market value provided by the client. Utilizing one of these sales allowed the appraiser to “bracket” the value estimate which was a common request of some underwriters. However, the result of this practice is to potentially overstate value.

**SR 1-1 (c) and SR 2-1 (a)** - The appraiser responded that “things had to be streamlined...” as a reason for “very general language”. This creates a potentially misleading report and contributes to a series of errors which in aggregate affects the credibility of the results.

**SR 1-2 ( c) (iv) and SR 2-2 (b) (ix)** — There is no reconciliation of the marketing / exposure time reported in the neighborhood section (3-6 months), and the significantly lower marketing times of the comparable sales (15-55 days). Multiple time frames are reported which is misleading.

**SR 1-3 (b) and SR 2-2 (a,b,c)(ix)** — The highest and best use is indicated by a check-box, which is commonly accepted practice. This does not constitute analysis. The subject was an existing single-family residence, and a single family use meets the criteria of highest and best use. The appraiser should be aware of this requirement.

**SR 1-4 (a) and SR 2-2 (b) (ix)** — The appraiser reported three of the five highest sales in the neighborhood, without addressing the ten sales which may have resulted in a different conclusion.

**SR 1-4 (b)(i)(li)(ili) and SR 2-2 (b) (ix)** - The cost approach is not considered necessary for credible results. It was however applied. The site value was not appropriately developed, and the work-file contained no land sale data. Proper application of the cost approach involves the user being able to reproduce the results, this is not the case. The estimate of accrued depreciation appears to be based on the age life method (10/100?). The subject was built in 1954. In the absence of any significant remodeling, outside of repairs and maintenance items, the effective age is likely closer to actual age. Understating depreciation would overstate the conclusions in the cost approach. Additional cost approach education should be recommended.

**SR 1-6 (a)(b) and SR 2-2 (b) (ix)** — There is no discussion of the quality and quantity of the data in the reconciliation within the individual approaches. The sales comparison appears to contain only stock and “canned” phrases with no analysis. Additional data could have been included, or an explanation should be made as to why the data was excluded. There is no discussion as to the level of individual adjustments. There is no reconciliation of quality or quantity of data among the approaches other than what appear to be stock comments.

**SR 2-1 (a) (b) and SR 2-2 (a,b,c)(viii)** — The use of stock commentary, a lack of analysis, and the exclusion and lack of discussion of additional data contained in the work-file report is potentially misleading. The information appears insufficient to enable the intended users to understand the report. Lenders and underwriters will often request/require “bracketing” sale data. This requirement may result in a higher value than would be indicated by utilizing the most comparable data.

## 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 3029 South 57<sup>th</sup> Street in Milwaukee, Wisconsin Respondent Anthony Darga 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 one year of the date of this Order, Respondent Anthony Darga must successfully complete the following courses from the Appraisal Institute (AI) or equivalent classes from educational institutions approved by the Department of Regulation and Licensing:

- a 30-hour class in Basic Appraisal Procedures or an equivalent course with an emphasis on the Sales Comparison Approach and the Cost Approach, and with a testing component.

- Appraisal Challenges: Declining Values and Market Concessions (7 hours).

Mr. Darga 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

The 30-hour class in Basic Appraisal Procedures (or its equivalent) may not be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

In the event Mr. Darga 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 she provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Respondent Anthony Darga pay the Department's costs of this matter in the amount of **\$696.50** 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. Darga 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 090 be closed.

Dated this 16<sup>th</sup> day of November, 2009.

## WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton, Board Chair, or another member of the Board