

# 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

THOMAS M. PROCK,  
  
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0000684

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Division of Enforcement Case File # 08 APP 114

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

Thomas M. Prock  
7391 Otter Creek Road  
Fall Creek, WI 54742

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

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 (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 Thomas M. Prock (Respondent), whose last known address of record with the Department of Regulation and Licensing (Department) is 7391 Otter Creek Road, Fall Creek, WI 54742, and whose date of birth is October 29, 1982, possesses a certificate of licensure as a licensed appraiser (#4-2004). The license was first granted on December 28, 2006, and will expire on December 14, 2011.

2. On August 21, 2008, Respondent signed a real estate appraisal report for property located at 6028 County Highway H, Stanley, WI. The effective date of the appraisal was August 5, 2008. The estimated fair market value was 200,000.

3. A review of the appraisal report shows violations of the applicable Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules including, but not limited to, the following:

a. USPAP Standards Rules 1-1(b), 1-4(a) and 2-2(b), which, in part, require appraisers to, "not commit a substantial error of omission or commission that significantly affects an appraisal." Respondent failed to adjust for various features of the comparable sales selected, which had an impact on value, including fireplaces (comparable sales 1 and 2); whirlpool (comparable sale 2); pond (comparable sale 2); age (comparable sales 1 and 2); and storage space (comparable sale 3, six-car garage).

b. USPAP Standards Rules 1-4(a) and 1-4(b)(i), which, in part, require appraisers to, "... develop an opinion of site value by an appropriate appraisal method or technique" for the cost approach, and to analyze sales data for the sales comparison approach. Respondent failed to properly analyze the value of the land under the sales comparison and cost approaches. A proper analysis under either method would be derived from market data. The fact that Respondent concluded that the value of the land under the cost approach was \$4,500 per acre, while the value of the same land was adjusted at only \$1,000 per acre under the sales comparison approach, demonstrates that Respondent's data was not market-derived for one or both approaches; the divergence in conclusions is too great.

c. USPAP Standards Rules 1-5(a) and 2-2(b)(viii), which, in part, require appraisers to analyze "all agreements of sale... of the subject property current as of the effective date of the appraisal;" and to report that analysis. Respondent failed to properly analyze the current agreement of sale and failed to summarize that analysis in the report. The agreement of sale included discounts to the sales price of the subject of approximately 9% of the sales price. Respondent reported that discounts in the form of seller concessions of \$11,700 and down payment assistance of \$5,558 were made by the seller. These concessions effectively reduced the sales price from \$195,000 to less than \$178,000. The difference between the effective sales price under the current agreement of sale and the market opinion of value (\$200,000) should have been analyzed and explained by the appraiser. Without some explanation, the effective sales price casts significant doubt upon the validity of the appraiser's market value opinion.

### CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. The conduct described above, at paragraph 3 of the Findings of Fact, constitutes a violation of:

- a. 2008 USPAP Standards Rule 1-1(b);
- b. 2008 USPAP Standards Rule 1-4(a);
- c. 2008 USPAP Standards Rule 1-4(b)(i)
- d. 2008 USPAP Standards Rule 1-5(a); and
- e. 2008 USPAP Standards Rules 2-2(b) and 2-2(b)(viii).

3. As a result of the above USPAP violations, Respondent is deemed to have also violated Wis. Admin. Code §§ RL 86.01(1) and (2), thereby subjecting himself to discipline pursuant to Wis. Stats. § 458.26(3)(b) and (c).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of Respondent Thomas M. Prock (#4-2004) is hereby reprimanded.

IT IS FURTHER ORDERED that:

2. The license of Respondent Thomas M. Prock (#4-2004) is hereby limited as follows:

- a. Respondent shall, within two years of the date of this Order, successfully complete the following courses online, or equivalent courses (online or in a classroom setting) by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses:
  - i. Basic Appraisal Principles (30 hrs., including 2 hr. exam); and
  - ii. Residential Sales Income & Comparison Approaches (30 hrs. including 2 hr. exam).
- b. The Respondent shall complete the examinations associated with each course at the following test center, or such other test center as may be pre-approved by the Board's monitoring liaison:

Pearson VUE Test Center – Eau Claire, Wisconsin  
3119 Golf Road  
Eau Claire, WI 54701

- c. Respondent shall submit proof of completion in the form of verification from the institution providing the education to the address indicated at paragraph 4 of this Order. None of the education completed pursuant to this requirement 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.

- d. This limitation shall be removed from Respondent's license and Respondent shall be granted a full, unrestricted license after satisfying the Board or its designee that he has successfully completed all of the ordered continuing education.
3. Thomas M. Prock shall, within 180 days of the date of this Order, pay costs of this matter in the amount of THREE HUNDRED AND TWENTY-FIVE DOLLARS (\$325.00).
4. Proof of successful course completion, payment of costs (made payable to the Wisconsin Department of Regulation and Licensing), and any petition for removal or modification of the limitations, shall be mailed, faxed or delivered by Respondent to the Department Monitor at this address:
- 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
5. 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. The 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 Respondent fails to comply with the ordered continuing education or fails to timely submit payment of the ordered costs, as set forth above, the Respondent's license (#4-2004) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.
6. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:

Maria L. Burton  
A Member of the Board

MMH

2/23/11  
Date