

**BEFORE THE WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

**IN THE MATTER OF: CALVERT ESTILL
CERTIFIED GENERAL REAL ESTATE APPRAISER
LICENSE NO. WV-158**

CONSENT AGREEMENT

Comes now, Calvert Estill (hereinafter "Mr. Estill"), and the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "the Board"), by counsel, Rex Burford, Senior Assistant Attorney General, for the purpose of agreeing to disciplinary action which shall be taken against Mr. Estill by the Board pursuant to West Virginia Code §§ 37-14-23(7) and 37-14-22.

As reflected in this document, the parties have reached an agreement concerning the proper disposition of this matter and the Board approving such agreement does hereby find and **ORDER** as follows:

FINDINGS OF FACT

1. The Board is a state entity empowered by the West Virginia Legislature to regulate the practice of real estate appraising pursuant to W.Va. Code § 37-14-1, et seq.
2. Calvert Estill is a Certified General Real Estate Appraiser, possessing license number WV-158.
3. On or about August 24, 1998, the Board received a complaint alleging that Mr. Estill performed an incorrect appraisal on a piece

of property belonging to Jack Butler and located in the Hamilton District of Nicholas County, West Virginia.

4. The Standards Committee reviewed the appraisal of the property described in paragraph 3, above, and finds three (3) Uniform Standards of Professional Appraisal Practice* (hereinafter "USPAP") violations which might affect the value of the property.

Those USPAP violations are:

- (a) The Ethics Provision, Conduct, requires that,

"An appraiser must perform ethically and competently in accordance with these standards and not engage in conduct that is unlawful, unethical, or improper. An appraiser who could reasonably be perceived to act as a disinterested third party in rendering an unbiased appraisal, review, or consulting service must perform assignments with impartiality, objectivity, and independence and without accommodation of personal interests.

An appraiser is required to avoid any action that could be considered misleading or fraudulent. In particular, it is unethical for an appraiser to use or communicate a misleading or fraudulent report or to knowingly permit

an employee or other person to communicate a misleading or fraudulent report.”

The appraisal that you performed for this property described in paragraph 3 above violates the provision as it is not prepared competently due to the following fact:

The subject property contains 20 acres and, contrary to generally accepted appraisal practice for appraising under eminent domain law, the appraiser has failed to value the entirety before the date of the take. This precludes consideration of the value of the whole and does not provide for support of the value of the take using the before and after procedures which are required.

(b) USPAP Rule 1-2(d) requires the appraiser to:

“consider whether an appraised fractional interest, physical segment, or partial holding contributes pro rata to the value of the whole.”

The appraisal that you performed for this property described in paragraph 3 above violates the Rule because the fractional interest in the taking was not considered in relation to the whole, this step being specifically required under generally accepted appraisal practice in the State of West Virginia.

(c) USPAP Rule 1-1-(a) requires that:

“In developing a real property appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.”

Under generally accepted appraisal practices governing a partial taking under eminent domain, the before and after values were not estimated.

CONCLUSIONS OF LAW

1. West Virginia Code § 37-14-23(7) states: “[t]he following acts and omissions shall be considered grounds for disciplinary action by the board . . . [v]iolation of any section of this article, or any rule promulgated thereunder, other than section twenty-three [§ 37-14-23].”
2. West Virginia Code § 37-14-22 provides,
Each real estate appraiser licensed or certified under this article shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal foundation; however, after a public hearing held in accordance with provisions of the state statutes applicable to public

hearings, the board may make such modifications of or additions to the uniform standards of professional appraisal practice as may be appropriate.

3. As described in paragraph 4 of the Findings of Fact, you violated USPAP by committing the violations described therein.
4. By violating USPAP, you violated W.Va. Code §37-14-22, which subjects you to discipline pursuant to W.Va. Code §37-14-23(7).

CONSENT

Calvert Estill, by affixing his signature hereto, agrees to the following:

1. He acknowledges that he is aware of his option to pursue this matter through appropriate administrative and/or court channels. But he intelligently, knowingly and voluntarily waives his right to do so.
2. He consents to the entry of the following Order affecting his license to practice real estate appraising in the State of West Virginia.

ORDER

On the basis of the foregoing, the Board hereby **ORDERS** that:

1. Mr. Estill shall not do further Eminent Domain appraisals until such time as he completes The Appraisal Institute Course 700 or its equivalent.
2. Mr. Estill shall pay a \$100 fine to the Board.
3. This Consent Agreement shall serve as a formal reprimand against Mr. Estill.
4. Mr. Estill recognizes that this Consent Agreement is a public record.

DATED this 14th day of February, 1999.


CALVERT ESTILL

DATED this 18 day of Feb, 1999.


LARRY M. MCDANIEL, Chairman
Standards Committee

David H. Shields
Chairman Wilk. Real Estate Appraiser Lic & Lect, Bd.
Re Appr Board approval 2/18/99