

BEFORE THE WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

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IN THE MATTER OF EDGAR WILSON
Certified General Appraiser No. 104

Case No. 02-008

CONSENT DECREE

THIS CONSENT DECREE is made and entered into this 14~~th~~ day of January, 2002 by and between the West Virginia Real Estate Appraiser Licensing and Certification Board ("Board"), and Edgar Wilson ("Licensee").

WHEREAS, the Board is a state entity created pursuant to W.Va. Code § 30-38-1 *et seq.*, formerly W.Va. Code § 37-14-1 *et seq.*, and is empowered to regulate the practice and profession of real estate appraising within the State of West Virginia, including but not limited to the licensing and disciplining of appraisers.

WHEREAS the Licensee currently holds a state certified general real estate appraiser certification, Certification No. 104, issued by the Board.

WHEREAS the Board has had under review one (1) complaint against the Licensee in connection with the Licensee's conduct, practices and acts as a certified general real estate appraiser: Complaint No. 02-008.

WHEREAS in connection with Complaint No. 02-008 involving an appraisal report dated November 16, 2000, for real estate located at 125 Williams Road, Beckley, West Virginia, the Board has probable cause to believe that the Licensee may have engaged in conduct, practices or acts constituting a deviation from generally accepted standards of professional appraisal practices as

evidenced by the Uniform Standards of Professional Appraisal Practices [1993 Edition] in violation of W.Va. Code §§ 37-14-22 & 23(7).

WHEREAS the Board was formerly authorized to suspend, revoke or otherwise discipline its licensees pursuant to W. Va. Code § 37-14-1 *et seq.*, and is currently authorized to suspend, revoke or otherwise discipline its licensees pursuant to W.Va. Code § 30-1-8 and W. Va. Code § 30-38-13.

WHEREFORE good and valuable consideration the parties agree each with the other as follows:

1. In connection with Complaint No. 02-008, the Licensee does not admit, in any way, that his conduct, practices and acts as a certified general real estate appraiser have constituted a deviation from generally accepted standards of professional appraisal practices as evidenced by the Uniform Standards of Professional Appraisal Practices [1993 Edition].

2. The Licensee hereby agrees to a sixty (60) days suspension of his certification as a state certified general real estate appraiser, Certification No. 104. Said suspension to run from the date this Consent Decree is entered and continuing for sixty (60) days thereafter. The Licensee hereby acknowledges that he is to cease and desist all real estate appraisal activity during the pendency of this suspension.

3. Upon expiration of the suspension, the Licensee shall be entitled to reapply for certification as a state certified general real estate appraiser: Provided, that prior to being re-certified, the Licensee agrees to complete and successfully pass an approved minimum 14 hour tested National Uniform Standards of Professional Appraisal Practices course, and to provide adequate documentation to the Board of such satisfactory completion; Provided, further, that

completion of said course shall not be credited toward any continuing education requirements of the Board.

4. Upon re-certification, the Licensee agrees to a term of probation of ninety (90) days, the conditions of which are as follows: The licensee shall maintain a log provided by the Board of all appraisals performed by him during the term of probation. The Board shall have the right to request three (3) work-files at random each month during the term of probation. If after reviewing such files the Board determines there is probable cause to pursue further disciplinary action, nothing herein shall be construed to preclude the Board from doing so.

5. The Licensee hereby agrees and assures the Board that he will, if re-certified, comply with the provisions of W.Va. Code § 30-38-1 *et seq.*, and any rules of the Board promulgated pursuant thereto, in the course and conduct of his profession as a certified general real estate appraiser.

6. The Licensee agrees to pay the Board the sum of Three Hundred Dollars and 0/100 (\$300.00) representing the Board's administrative costs in connection with its investigation of Complaint No. 02-008.

7. It is agreed and understood that the contents of this Consent Decree are and shall be public information.

8. It is further agreed and understood that while the parties to this Consent Decree presently intend to cooperate in obtaining compliance with the terms and conditions set forth herein, the matters settled by the execution of this Consent Decree may be reopened at any time by the Board for further proceedings in the public interest upon determination by the Board that reasonable

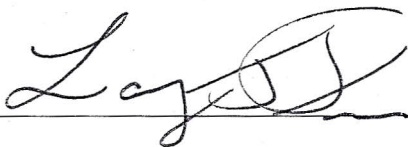
cause exists to believe that the Licensee has failed to comply or otherwise violated the terms of this Consent Decree.

9. This Consent Decree shall be interpreted in accordance with the laws of the State of West Virginia, and venue of any lawsuit filed by any party arising in whole or in part out of this Consent Decree shall be in the Circuit Court of Kanawha County, West Virginia, and further that in the event any part of this Consent Decree is invalidated by order of a court of competent jurisdiction or by legislative action, the remainder of this Consent Decree shall remain in binding effect.

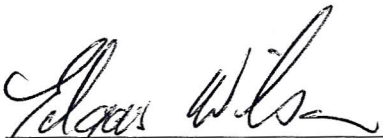
10. This Consent Decree constitutes the entire agreement between the parties.

IN WITNESS WHEREOF the parties hereto have caused this Consent Decree to be duly executed the day and year first above written.

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

By: 

Its: Chairman


EDGAR WILSON

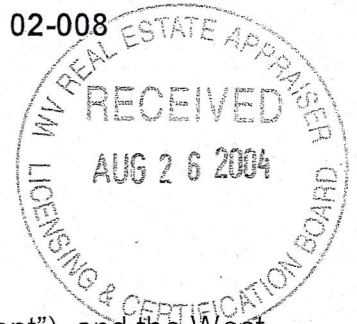
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BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD

IN THE MATTER OF:

EDGAR WILSON,
Certified General Appraiser
No. 104

Complaint No. 02-008



CONSENT DECREE

Now comes Respondent, Edgar Wilson (hereinafter "Respondent"), and the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board"), by Sharron L. Knotts, its Executive Director, and by its counsel, Gregory G. Skinner, Assistant Attorney General, for the purpose of resolving Complaint No. 02-008 filed against Respondent. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent hereby agrees and stipulates to the Findings of Fact and Conclusions of Law set forth herein concerning the proper disposition of this matter, and the Board, having approved such agreement, does hereby find and Order as follows:

FINDINGS OF FACT

1. The Board is a state entity created by W. Va. Code § 30-38-1, *et seq.*, and is empowered to regulate, among other things, the conduct of licensed residential appraisers.
2. Respondent is a state licensed certified general appraiser licensed by the Board, holding license number 104.
3. On or around January 14, 2003, Respondent entered into a Consent Decree with the Board, preliminarily resolving issues surrounding Complaint No. 02-008.

4. Among other things, Respondent was required to serve a probationary term of ninety (90), maintain a log of appraisals performed by Respondent, and allow the Board to chose (3) workfiles to review each month during the term of probation. If after reviewing such files the Board determined there was probable cause to pursue further disciplinary action, the Board has the authority to do so.

5. As a result of workfiles reviewed, the Board reviewed, among others, an appraisal of a Six (6) Unit Apartment Building, located at Route 47 and Fall Run Road, Newark, West Virginia (hereinafter "Property").

6. The Property consisted of one (1) tract of improved property with two (2) structures that contain a total of six one (1) bedroom rental apartments.

7. Respondent conducted the appraisal of the Property on May 7, 2003.

8. Respondent developed all three (3) approaches to value, and arrived at a reconciled fair market value estimate of \$200,000.

9. Despite the fact that the Property had been recently sold and remodeled, Respondent failed to make mention or consider the same in his appraisal of the Property.

10. In the development of the cost approach, Respondent relied upon data from the Marshall Valuation Service, and failed to place any reliance upon the recent sale and actual costs incurred by the Owner for improvement of the Property.

11. In the development of the market approach, Respondent considered, among other things, two (2) sales of six (6) unit apartment buildings in which to develop a per-apartment unit value. Respondent failed to make proper adjustments for the comparables, where such comparable apartment units contained two (2) bedrooms, and the Property units contained one (1) bedroom.

12. Respondent's failure to make the proper adjustment resulted in an inflated market approach value of the Property.

13. In the development of the income approach, Respondent improperly failed to develop an operating statement for the Property, inaccurately determined the direct capitalization rate, and as a result, yielded an inflated indication of value of the Property.

14. As a result of the above-referenced error, the estimated market value of the Property is over-valued, unreasonable and/or inaccurate.

CONCLUSIONS OF LAW

1. Pursuant to Article 38 of Chapter 30 of the West Virginia Code, the Board is the State entity vested with the power to regulate real estate appraisers in the State of West Virginia.

2. West Virginia Code § 30-38-12(a)(11) provides that "[f]ailing or refusing without good cause to exercise reasonable diligence, or negligence or incompetence, in developing an appraisal, preparing an appraisal report, or communicating an appraisal," is grounds for disciplinary action, including, revocation or suspension of license.

3. Pursuant to West Virginia Code § 30-38-12(a)(7), violation of any section of Article 38, Chapter 30 of the Code of West Virginia constitutes grounds for disciplinary action against a licensee.

4. West Virginia Code § 30-38-17 provides, in pertinent part, that "[e]ach real estate appraiser licensed or certified under this act 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.”

5. Pursuant to the Uniform Standards of Professional Appraisal Practice (hereinafter “USPAP”), Standards Rule 1-1(b), from which deviation is not permitted, “[i]n developing a real property appraisal, an appraiser must . . . not commit a substantial error of omission or commission that significantly affects an appraisal.”

6. “In developing a real property appraisal, an appraiser must . . . not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.” USPAP, Standards Rule 1-1(c).

7. Pursuant to the USPAP Standards Rule 1-5(b), from which deviation is not permitted, “[i]n developing a real property appraisal, an appraiser must . . . analyze any prior sales of the property that occurred within . . . three years for all . . . property types [that are not one-to-four-family residential properties].”

8. Respondent unlawfully failed, without good cause, to develop, prepare and communicate credible and accurate appraisals in relation to the above-referenced properties in violation of W. Va. Code § 30-38-12(a)(11).

9. Respondent unlawfully failed to make proper adjustments in regard to comparables utilized in the market approach, and failed to properly develop the cost, market and income approach for value of the Property, which resulted in a substantial error that significantly affected said appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17 and USPAP Standards Rule 1-1(b).

10. Respondent unlawfully rendered appraisal services, where such services contained error, in the aggregate, affecting the integrity and credibility of said appraisals, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standard Rule 1-1(c).

11. Respondent unlawfully failed to analyze the prior sale of the Property in his appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standard Rule 1-5(b).

CONSENT

Respondent, both in his individual capacity and as a certified general appraiser, by the execution hereof, agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent consents to the entry of the following Order affecting his conduct as a state certified general appraiser.

ORDER

On the basis of the foregoing, the Board hereby ORDERS as follows:

1. Respondent, in his capacity as a state licensed certified general appraiser, shall in the future comply with all applicable laws and regulations, as promulgated and set forth by the Real Estate Appraiser Licensing and Certification Act, W. Va. Code § 38-1-1, *et seq.*, and the Uniform Standards of Professional Appraisal Practice.

2. Respondent's license shall be placed on probation for a period of six (6) months, where such probation shall begin on the date of execution of the instant Consent Decree.

3. Respondent shall maintain a log provided by the Board of all appraisals performed by Respondent during the term of probation. The Board shall have the right to request two (2) workfiles at random during the term of probation. If after reviewing such files the Board determines there is probable cause to pursue further disciplinary action, nothing herein shall be construed to preclude the Board from doing so.

4. In the event Respondent violates the terms of this Consent Decree, and, subsequent to notice and hearing, the Commission so finds a violation, then, in such event, the events giving rise to this Consent Decree may be considered in the determination of the kind and extent of sanctions to be subsequently imposed.

AGREED TO BY:



EDGAR WILSON, Individually

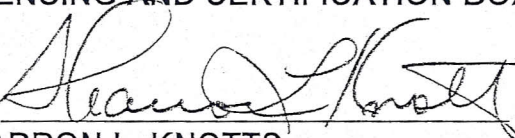
8/18/04

DATE

ENTERED into the records of the Board this:

30th day of August, 2004.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: 

SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

August 30, 2004

DATE