

BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD

IN THE MATTER OF:

ANITA FISCHETTI,
Licensed Residential
Appraiser No. 0673.



CONSENT DECREE

Now comes Respondent, Anita Fischetti (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 a certain complaint received by the Board, on or around June 10, 2003, 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 in the instant Consent Decree 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 residential real estate appraiser licensed by the Board, holding license number 0673.

3. On or around August 21, 2001, Respondent performed a commercial appraisal for James L. Burns, in regard to property located at 420 North Washington Street, Berkeley Springs, West Virginia, 25411.

4. The above-referenced property appraised by Respondent constituted a nonresidential real estate having a value of greater than one hundred thousand dollars (\$100,000.00).

5. Respondent appraised the aforementioned nonresidential real estate property at greater than one hundred thousand dollars (\$100,000.00).

6. Respondent did not hold a proper license, designated as state certified general real estate appraiser, to perform the appraisal she conducted on behalf of Burns, for the above-referenced property.

7. Respondent failed to maintain an inclusive workfile for the appraisal performed on the above-referenced real estate property.

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 § 30-38-4(b)(3) provides, in pertinent part, that a state licensed residential real estate appraiser is authorized to conduct appraisals of nonresidential real estate having a value of less than one hundred thousand dollars (\$100,000.00).

3. Pursuant to West Virginia Code § 30-38-4, only a state certified general real estate appraiser may conduct appraisals of nonresidential real having a value of more than one hundred thousand dollars (\$100,000.00).

4. 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.

5. Respondent unlawfully appraised the real estate property located at 420 North Washington Street, Berkeley Springs, West Virginia, 25411, on or around August 21, 2001, in violation of West Virginia Code §§ 30-38-4 and 30-38-12(a)(7).

6. Pursuant to the Uniform Standards of Professional Appraisal Practice, Ethics Rule (Record Keeping), an appraiser must prepare, maintain and retain for at least five (5) years a proper workfile on each real estate property appraised.

7. Respondent unlawfully failed to prepare, maintain and retain a proper workfile in regard to the aforementioned property appraised in violation of the Uniform Standards of Professional Appraisal Practice, Ethics Rule (Record Keeping).

8. Pursuant to the Uniform Standards of Professional Appraisal Practice, Competency Rule, an appraiser must, among other things, "1. disclose the lack of knowledge and/or experience to the client before accepting the assignment; 2. take all steps necessary or appropriate to complete the assignment competently; and 3. describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report."

9. Respondent unlawfully performed the above-referenced appraisal in violation of the Uniform Standards of Professional Appraisal Practice, Competency Rule.

CONSENT

Respondent, both in her individual capacity and as a licensed residential 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 she is aware that she may pursue this matter through appropriate administrative and/or court proceedings, and is aware of her legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent consents to the entry of the following Order affecting her conduct as a state licensed residential real estate appraiser.

ORDER

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

1. Respondent, in her capacity as a state licensed residential real estate appraiser, shall be limited to appraising single family residences for a minimum of one (1) year, and may not appraise any other types of property not defined as single family residential.

2. Respondent may request the Board to fully reinstate Respondent's license to practice real estate appraising as a state licensed residential real estate appraiser, without restrictions, upon satisfactory compliance by Respondent, as determined by the Board, with the following conditions:

- a. Respondent must practice real estate appraising for a minimum of one (1) year under the above-referenced restrictions;
 - b. Respondent must successfully complete and pass an examination test for a course on small income producing residential properties. Respondent shall provide the Board with a completion certificate verifying Respondent's successful completion of the course. Such course shall not count toward any continuing educational requirements for licensure renewal;
 - c. Upon completion of the above-referenced course, Respondent must perform a Complete Summary Appraisal on a two (2) to four (4) family residential property and submit the same to the Board's Standards Committee for review; and
 - d. The Board's Standards Committee shall review the Complete Summary Appraisal submitted by Respondent and determine whether such Complete Summary Appraisal meets its approval.
3. Respondent, within thirty (30) days of the date of entry of this order, shall pay to the Board the amount of seven hundred and fifty dollars (\$750.00). Such payment by Respondent shall be designated as a punitive fine.
4. Respondent, within thirty (30) days of the date of entry of this order, shall additionally pay to the Board the amount of four hundred and fifty dollars (\$450.00). Such payment by Respondent shall represent the costs incurred by the Board associated with the investigation and prosecution of the instant complaint, and the subsequent reimbursement to the Board thereof.
5. 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 shall be considered in the determination of the kind and extent of sanctions to be subsequently imposed. Such possibility of enhancement shall be effective during the pendency of the instant restrictions placed upon Respondent's license subsequent to the entry of this Order.

AGREED TO BY:

Anita Fischetti
ANITA FISHCETTI, Individually

12-22-2003
DATE

ENTERED into the records of the Board this:

22 day of Jan., ²⁰⁰⁴~~2003~~

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: [Signature]
Chairman

1/22/04
DATE