

BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD



IN THE MATTER OF:

RONALD WHITEHAIR,
Licensed Residential
Appraiser No. 0739

Complaint Number: 04-015

CONSENT DECREE

Now comes Respondent, Ronald Whitehair (hereinafter "Respondent"), and the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board"), by Sharron L. Knotts, its Executive Director, for the purpose of resolving Complaint No. 04-015 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 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 licensed residential real estate appraiser licensed by the Board, holding license number 0739.
3. Christopher Smith was a residential appraiser apprentice, holding apprentice permit no. 10309. During all times pertinent herein, Respondent was the real estate appraiser supervisor to and responsible for Smith.

4. On or around September 2, 2004, Smith performed an appraisal of residential property located at Route 10 Keyrock Road, Rock View, West Virginia 24870.

5. Respondent approved and signed said appraisal on November 20, 2002.

6. Respondent and Smith appraised the subject property on behalf of their client, Global Mortgage Group, Inc. (hereinafter "Global Mortgage").

7. In correspondence entitled "Request for Appraisal" by Global Mortgage to Respondent, Global Mortgage estimated the value of the subject property at \$70,000.

8. Respondent and Smith appraised the value of the residential property, as of November 13, 2002, at \$75,000.

9. The subject property had 1,152 square feet of living space.

10. The appraisal contained certain inaccurate and / or erroneous information in regard to the subject property and comparables utilized.

11. Assignments of error committed by Respondent and Smith in regard to the appraisal of the subject property include, but are not limited to, the following:

(a) Respondent and Smith erroneously stated that the location of the subject property was suburban, where the location was actually rural;

(b) Respondent and Smith erroneously stated that the growth rate of the area was stable, whereas the growth rate was slow;

(c) Respondent and Smith erroneously stated that the area was built up 25 to 75 percent, whereas the area was built up less than 25 percent;

(d) Respondent and Smith erroneously stated properties in the area had a marketing time of 3 to 6 months, where the marketing period was generally over 6 months;

(e) Respondent and Smith estimated the predominant single family housing value in the area was \$70,000, where such value was actually around \$45,000;

(f) On page 1 of the URAR, Respondent and Smith inaccurately stated that the subject property was a ranch house, where the property was a manufactured home; and

(g) Respondent and Smith inaccurately calculated the estimated value of the site at \$15,000, where such site should have been estimated at approximately \$2,300.

12. Comparable No. 2 of the appraisal had 2,016 square feet, and was not comparable to the subject property.

13. Comparable No. 3 of the appraisal had 2,128 square feet, and was not comparable to the subject property.

14. Respondent utilized comparables which were not reasonably comparable to the subject properties.

15. Certain individual adjustments performed by Respondent on the comparables utilized in the appraisal report were neither reasonable, supportable nor consistent.

16. On or around May 28, 2002, Respondent performed an appraisal of residential property located at 41 Railroad Drive, Eskdale, West Virginia, 25122.

17. Respondent appraised the subject property on behalf of his client, Global Mortgage Group, Inc.

18. In correspondence entitled "Request for Appraisal" by Global Mortgage to Respondent, Global Mortgage estimated the value of the subject property at \$90,000.

19. Respondent appraised the value of the subject property, as of May 28, 2002, at \$90,000.

20. In such appraisal, Respondent provided certain inaccurate and / or erroneous information in regard to the subject property and comparables utilized.

21. Assignments of error committed by Respondent in regard to the appraisal of the subject property include, but are not limited to, the following:

(a) Respondent stated that the predominant single family housing value in the area was \$95,000, where such value was approximately \$60,000 to \$65,000;

(b) Respondent identified the street as asphalt, where such street was gravel;

(c) Respondent identified the driveway as gravel, where the driveway was asphalt;

(d) On page 1 of the URAR, Respondent incorrectly stated that the subject property was not a manufactured house;

(e) Respondent incorrectly determined the indicated value of the subject property by the cost approach was \$90,700, whereas the indicated value of the subject property was approximately \$71,000 to \$74,900;

(f) Respondent incorrectly stated the distances of comparables utilized as related to the subject property;

(g) Respondent incorrectly assigned \$2,000 value to an above ground pool;

(h) Respondent incorrectly stated the room count and gross living area of comparable no. 1;

(i) Respondent provided an incorrect and misleading photograph of the "street scene" of the subject property;

(j) Respondent incorrectly cited the gross living area of comparable no. 1 as 1,130 square feet, where the actual gross living area was approximately 1,924 square feet. As a result, the \$1,700 positive adjustment performed by Respondent was in error, and should have been a negative adjustment;

(k) Respondent failed to perform an adjustment on comparable no. 1 for the two car detached garage; and

(l) Respondent incorrectly cited the gross living area of comparable no. 2 as 1,874 square feet, where the actual gross living area was approximately 1,974 square feet. As a result, the \$4,200 negative adjustment performed by Respondent was in error, and should have been a greater negative adjustment.

22. Certain individual adjustments performed by Respondent on the comparables utilized in the appraisal report were neither reasonable, supportable nor consistent.

23. The comparables utilized by Respondent were not comparable to the subject property. For example, the subject property was located on 0.30 acres of land, where comparable no. 1 was located on 26 acres of land.

24. As a result of such inaccurate information and mistakes, the appraisals of the above-referenced subject properties were 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. The apprentice shall work under the supervision of a state licensed or state certified real estate appraiser. W. Va. Code R. §§ 190 -2-11.6.a. and 2-11.7.d.

3. The appraiser supervisor shall at all times be responsible for and shall provide supervision of the work performed by the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice (hereinafter "USPAP") and West Virginia Code § 30-38-1, et seq.; W. Va. Code R. § 190-2-11.7.a.

3. Pursuant to W. Va. Code §§ 30-38-12(a)(7) and 30-38-13(b), the Board may revoke, suspend, refuse to renew, or otherwise discipline the license of an appraiser, or deny an application, for any violation of any section of this article, or rule of the Board.

4. 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.

5. 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 . . ." USPAP.

6. Pursuant to USPAP, Standards Rule 1-1(a), "[i]n 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."

7. Pursuant to USPAP, Standards Rule 1-1(b), "[i]n developing a real property appraisal, an appraiser must . . . not commit a substantial error of omission or commission that significantly affects an appraisal."

8. "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).

9. Respondent, in his capacity as a real estate appraiser supervisor, failed to adequately supervise apprentice Smith and review apprentice Smith's work product regarding the Keyrock Road subject property, as outlined above, in violation of W. Va. Code §§ 30-38-12(a)(7), 30-38-13(b), and W. Va. Code R. § 190-2-11.7.a.

10. Respondent 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).

11. Respondent failed to understand or correctly employ proper and appropriate techniques that are necessary to produce a credible appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-1(a).

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

CONSENT

Respondent, both in his individual capacity and as a licensed residential real estate 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 licensed residential real estate appraiser.

ORDER

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

1. Respondent's license shall be placed on probation for a period of one (1) year, where such probation shall begin on the date of execution of the instant Consent Decree. During such period of probation, Respondent shall not employ, supervise or otherwise be responsible for any real estate appraiser apprentice in the State of West Virginia.

2. Respondent shall maintain and submit to the Board a monthly log of all appraisals performed by Respondent during the term of probation. The Board shall have the right to request 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.

3. Respondent, within ninety (90) days of the date of entry of this order, shall successfully pass, complete, and provide to the Board all proper documentation reflecting the same, a minimum fifteen (15) hour course, with examination, approved by the Board relating to the sales comparison approach.

4. Respondent, within three (3) months of the date of entry of this order, shall pay to the Board the amount of three-thousand dollars (\$3,000.00). 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. Any deviation from the requirements of the instant Consent Decree, without the prior written consent of the Board, shall constitute a violation of this Order, and result in the immediate suspension of Respondent's probationary license. The Board shall immediately notify Respondent via certified mail of the specific nature of the charges, and the suspension of Respondent's license. Respondent may request reinstatement of his probationary license through renewal of this agreement, or execution of a new agreement, which may contain different or additional terms. The Board is not bound to comply with Respondent's request.

In the event Respondent contests any such allegations of violation of the Consent Decree, if any, which results in the suspension of Respondent's license, Respondent may request a hearing to seek reinstatement of his probationary license. Any such hearing shall be scheduled and conducted in accordance with the provisions of West Virginia Code § 30-1-8 and § 30-38-1, et. seq.

Further, in the discretion of the Board and in the event Respondent violates the provisions of the instant Consent Decree, the Board may schedule a hearing on its own initiative for the purpose of allowing the Board the opportunity to consider further discipline against Respondent's license.

AGREED TO BY:

Ronald K. Whitehair
RONALD WHITEHAIR, Individually

4/27/06
DATE

ENTERED into the records of the Board this:

3rd day of May, 2006.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: Sharron L. Knotts
SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

May 3, 2006
DATE