

BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD



IN THE MATTER OF:

DEBRA CALE,
Licensed Residential
Appraiser No. 0800

Complaint Number: 04-016

CONSENT DECREE

Now comes Respondent, Debra Cale (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. 04-016 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 0800.
3. During all times pertinent herein, Respondent was an apprenticed real estate appraiser, holding Apprentice Permit No. 10326 through the Board.

4. Lawanta Vecchio is a licensed residential real estate appraiser, holding license number 0691 through the Board.

5. During all times pertinent herein, Ms. Vecchio was the real estate appraiser supervisor of Respondent.

6. On or around May 24, 2002, Respondent and Ms. Vecchio performed an appraisal of residential property located at 202 38th Street, Vienna, West Virginia, 26105, on behalf of Global Mortgage.

7. Respondent appraised the value of the subject property, as of May 20, 2002, at \$165,000.00.

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

9. 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 foundation of the subject property was a full slab, but also stated that the subject property contained a full basement;

(b) On page 1 of the URAR, Respondent inaccurately stated that the dimensions of the subject property are 60' by 124', where the subject property's dimensions are actually 50' by 123.75';

(c) On page 1 of the URAR, Respondent inaccurately states that the site area of the subject property is 7,440 square feet, where the subject property's site area is actually approximately 6,200 square feet;

(d) On page 1 of the URAR, Respondent described the subject property as a corner lot, wherein the subject property was not a corner lot;

(e) Respondent inaccurately stated the subject property contained a built in range and oven; and

(f) Respondent inaccurately estimated the site value of the subject property at \$35,000, where such site value should have been between \$16,000 and \$20,000.

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

11. For example, the subject property contained a gross living area of 1,162 square feet, and Respondent utilized comparables that contained 2,700 square feet, 1,765 square feet, and 1,700 square feet.

12. The comparables utilized by Respondent were superior to the subject property.

13. As a result of such inaccurate information and mistakes, and the utilization of inappropriate comparables, the estimated market value of the above-referenced subject property was over-valued, unreasonable and/or inaccurate.

14. The estimated market value of the subject property, as of May 20, 2002, should have been between \$81,000 and \$93,000.

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. West Virginia Code § 30-38-12(a)(7) provides that “[v]iolation of any section of this article, or any rule of the board” is grounds for disciplinary action, including, but not limited to, revocation or suspension of license.

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 . . .” the Uniform Standards of Professional Appraisal Practice (hereinafter “USPAP”).

5. 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.”

6. 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.”

7. “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).

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

9. 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).

10. Respondent rendered appraisal services, where such services contained error affecting the integrity and credibility of said appraisal, 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 her 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 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 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 one (1) year, where such probation shall begin on the date of execution of the instant Consent Decree. During such time of probation of license, Respondent shall not supervise any real estate appraiser apprentice(s).

3. 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.

4. 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 approved by the Board relating to the sales comparison approach.

5. Respondent, within thirty (30) days of the date of entry of this order, shall pay to the Board the amount of nine hundred and seventy dollars (\$970.00). 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.

6. In the event Respondent violates the terms of this Consent Decree, and, subsequent to notice and hearing, the Board 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:

Debra Cale
DEBRA CALE, Individually

9/14/05
DATE

ENTERED into the records of the Board this:

19th day of September, 2005.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

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

9/19/05
DATE