

BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD



IN THE MATTER OF:

DIANE NOEL,
Licensed Residential
Appraiser No. 0719

Complaint Numbers: 04-014
04-023
05-008

CONSENT DECREE

Now comes Respondent, Diane Noel (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 Numbers 04-014, 04-023 and 05-008 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 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 0719.
3. On or around September 13, 2003, Respondent performed an appraisal of residential property located at Mallow Farm Road, Davis, West Virginia, 26241.

4. The appraisal contained certain inaccurate and/or erroneous information in regard to the subject property, including the following:

- (a) Respondent incorrectly cited the square footage of the property;
- (b) Respondent incorrectly cited the number of bedrooms within the property; and
- (c) Respondent did not accurately sketch the details of the property.

5. On or around November 6, 2003, Respondent performed an appraisal of residential property located at 200 High Street, Fayetteville, West Virginia, 25840.

6. Although the subject property contained a barn, none of the comparable properties utilized by Respondent contained a barn.

7. Respondent failed to make adjustments to the value of the comparable properties regarding the barn, and failed to explain why no adjustments were performed.

8. Comparables No. 2, 3 and 4 were superior properties to the subject property, and therefore not comparable to the subject property.

9. Respondent failed to adequately justify the value of the subject property.

10. On or around July 12, 2001, Respondent performed an appraisal of residential property located at 211 Crescent Road, Beckley, West Virginia, 25701.

11. Respondent incorrectly identified the neighborhood boundaries of the subject property within the appraisal.

12. Respondent utilized comparables that were not comparable to the subject property, and failed to perform proper adjustments on such comparables.

13. Respondent inaccurately stated the age of the subject property.

14. Respondent failed to adequately justify the value of the subject 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. 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.
3. 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.
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 . . .” 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 properties 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 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 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'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. 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 complete and provide to the Board all proper documentation reflecting the same, a minimum seven (7) hour course approved by the Board relating to the sales comparison approach.

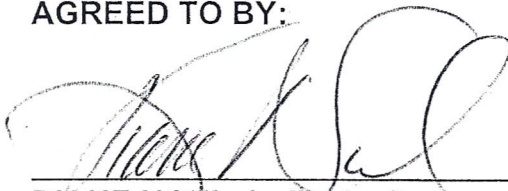
4. Respondent, within thirty (30) days of the date of entry of this order, shall pay to the Board the amount of \$1,800.00. Such payment by Respondent shall represent the costs incurred by the Board associated with the investigation and prosecution of the instant complaint, and the subsequent reimbursement 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 her 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 her 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:



DIANE NOEL, Individually

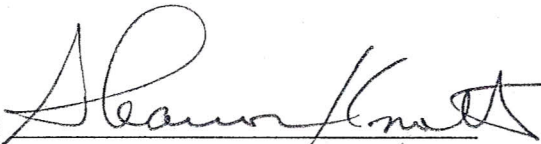
10/13/06

DATE

ENTERED into the records of the Board this:

18th day of October, 2006.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: 

SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

10/18/06

DATE