

BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD



IN THE MATTER OF:

HOWARD GOHEEN,
Licensed Residential
Appraiser No. 0585

Complaint Numbers: 04-024
04-027

CONSENT DECREE

Now comes Respondent, Howard Goheen (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 Complaints 04-024 and 04-027 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 0585.
3. Pamela Goheen is a residential appraiser apprentice, holding apprentice permit no. 10218.

4. During all times pertinent herein, Respondent was the real estate appraiser supervisor to Ms. Goheen.

5. On or around September 2, 2004, Respondent and Ms. Goheen performed an appraisal of residential property located at 1577 Hyatt Avenue, Morgantown, West Virginia 26505.

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

7. 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 notes that the subject property contains forced air gas heating. On page 2 of the URAR, however, Respondent states that the subject property has baseboard heating;

(c) On page 1 of the URAR, Respondent claimed the subject property has a one car detached garage. On page 2 of the URAR, Respondent stated that the subject property had a two car attached garage;

(d) Respondent described the site lot as "roughly level," wherein the lot has a significant steep slope on the rear portion of the lot;

(e) Respondent's appraisal reflects in certain places that the valuation date was August 13, 2004, and in another place on the appraisal that it was August 19, 2004;

(f) Respondent stated in certain places on the appraisal that the estimated value of the subject property was \$198,000, and in another place \$191,000;

(g) Respondent inaccurately stated the subject property contains 1.5 stories, whereas the property, as reflected by the floor plan, contains only one story;

(h) Respondent erroneously stated the location is urban, whereas the property should have been classified as suburban;

(i) On page 1 of the URAR, Respondent stated 836 square feet of the basement was finished, whereas on page 2 of the URAR, Respondent stated 826 square feet of the basement was finished;

(j) Respondent stated the exterior walls of the subject property were shingle, whereas the exterior walls of the property was vinyl siding;

(k) Respondent stated the neighborhood single family housing range between \$60,000 and \$400,000, with a predominant average value of \$175,000. The actual neighborhood single family housing range was between \$50,000 and \$150,000, with a predominant range of \$110,000;

(l) Respondent stated the location of Comparable No.1 to be Star City, and subsequently made a positive \$8,500 adjustment for such location. Comparable No. 1, however, was located in Suncrest, and a positive \$8,500 adjustment should not have be made by Respondent. Respondent failed to make location adjustments for Comparables No. 2, 3 and 4;

(m) Respondent failed to make adjustments for heating/cooling for Comparables No. 1, 2, 3 and 4;

(n) On page 2 of the URAR, under the "Comments on Sales Comparison" section, Respondent stated "Comp #3 is closest to the subject in location and actual age, requires the least net adjustment, and is weighted 60%. Comp #3 is the most recent sale in an appreciating market, and is weighted 20%." Such statements conflict; and

(o) Respondent noted that the subject property had a fireplace. Respondent further noted that Comparable No. 1 did not have a fireplace, and subsequently made a positive \$2,500 adjustment for Comparable No. 1. Respondent additionally noted that Comparable No. 4 did not have a fireplace, but failed to make a proper adjustment for Comparable No.4 in this regard;

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

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

10. On or around September 1, 2004, Respondent and Ms. Goheen performed an appraisal of residential property located at 114 Grand Avenue, Lumberport, West Virginia 26386.

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

12. 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 inaccurately cited the number of bedrooms of the subject property, in that on the URAR, Respondent stated the property contained two bedrooms, but in the supplemental addendum of the appraisal (hereinafter "addendum") and the building sketch, Respondent stated the subject property contained three bedrooms;

(b) Although Respondent attributed \$32,666 to physical depreciation of the subject property, as stated on the URAR, Respondent stated in the addendum that "due to evident good care and preventative maintenance, no items of physical depreciation were noted." Such statement in the addendum is inconsistent with the monetary amount subtracted attributable to physical depreciation;

(c) In the addendum, Respondent stated "Comp #1 is adjusted upwards for inferior condition, and for location in a less valuable area." Respondent subsequently made a positive \$3,000 adjustment on Comparable No. 1 for condition. Respondent, however, on the URAR, assigned the subject property a condition of "average," whereas Respondent assigned Comparable No. 1 a condition of "fair/average." As a result, Respondent failed to justify on the appraisal an adjustment of \$3,000;

(d) In the addendum, Respondent stated "Comp #2 was adjusted upwards for inferior condition (the subject is partially remodeled)." Respondent, however, failed to make any adjustment for condition on the

URAR, and in fact, assigned both the subject property and Comparable No. 2 a condition description of "average;"

(e) In the addendum, Respondent stated "Comp #3 was adjusted downwards for location in a more valuable area, and for a three bedroom floor plan." Respondent, however, failed to make any adjustment for condition on the URAR, and in fact, assigned both the subject property and Comparable No. 3 a condition description of "average." Moreover, as stated above, the floor plan of the subject property reflected that the subject property contained three bedrooms, as opposed to two;

(f) Respondent incorrectly stated both the street and driveway relating to the subject property was "stone," were such street and driveway was asphalt;

(g) Respondent's analysis of functional depreciation, as reflected in the addendum, was flawed and inaccurate;

(h) Respondent incorrectly stated the site area as .50 acres, whereas the correct site area should have been stated as .30 acres;

(i) The legal description set forth by Respondent was not for the subject property, and is therefore inaccurate, and reflects the wrong site size;

(j) Respondent incorrectly stated that the subject neighborhood had single family housing valued at \$175,000, and incorrectly stated that the predominate value of single family housing in the neighborhood was \$90,000;

(k) Respondent failed to make proper location adjustments for comparables utilized;

(l) Respondent incorrectly stated the subject property contained a side porch, where the subject property did not include a side porch; and

(m) Respondent incorrectly signed the appraisal as the “appraiser,” whereas Ms. Goheen, an apprentice appraiser, signed the appraisal as the “supervisory appraiser.”

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

14. As a result of such inaccurate information and mistakes, the estimated market values 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. 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 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 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, in his 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.

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 eight hundred and twenty dollars (\$820.00). 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:



HOWARD GOHEEN, Individually

8/10/2005

DATE

ENTERED into the records of the Board this:

15 day of August, 2005.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: 

SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

8/15/05

DATE