

BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD

IN THE MATTER OF:

SAMUEL WILLIAMS,
Licensed Residential Appraiser License No. 0270



CONSENT DECREE

Now comes Respondent, Samuel Williams (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 Board Complaint Number 06-020, 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, holding Licensed Residential Appraiser License No. 0270, through the Board.
3. On or around February 8, 2005, Respondent performed an appraisal of property located on True Road, Pipestem, Summers County, West Virginia, 25979 (hereinafter "Property").

4. The Property was previously utilized as a one story school building, was 104 years old at the time of the appraisal, and contained significant amounts of asbestos.

5. Respondent failed to clearly state that the purpose of the appraisal was intended as a restricted use appraisal.

6. Respondent stated that the highest and best use of the Property would be a storage building or church, but only if the Property was rebuilt.

7. However, the Property could be utilized for a variety of purposes if the Property was rebuilt.

8. Respondent appraised the value of the Property at \$23,200.00, as of February 8, 2005.

9. In order to arrive at an appraised value, Respondent did not utilize the sales comparison or income approaches, but instead utilized the cost approach.

10. On the appraisal, Respondent indicated that the cost approach was "the best indicator of market value for the subject [Property]."

11. Respondent determined the replacement cost of the Property was \$263,779, that the Property had physically depreciated 90% in the amount of \$237,401, and that the Property had functionally depreciated 5% in the amount of \$13,189.

12. Given the Property's age, and lack of supporting data, the cost approach does not afford a reliable indication of the Property's value.

13. However, in contradiction to Respondent's stated use of the cost approach, Respondent additionally stated on the appraisal that he invoked the "departure provision of the USPAP as all three approaches for determining value were not applicable to this appraisal."

14. Respondent failed to articulate and/or describe the manner in which he departed from the cost approach in the determination of value.

15. Respondent failed to provide sufficient information within the appraisal to support the conclusions articulated within the appraisal.

16. As presented, the multi-purpose addendum utilized by Respondent was not applicable or appropriate for use with the appraisal of the Property.

17. Respondent inaccurately stated the appraisal was a summary appraisal report, whereas the appraisal is a restricted use appraisal report.

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, but not limited to, revocation or suspension of license.

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

4. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(a), from which deviation is not permitted, “[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.”

5. Respondent unlawfully failed to be aware of, understand, and correctly employ appropriate methods and techniques necessary to produce a credible appraisal of the subject property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-1(a).

6. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(b), from which deviation is not permitted, “[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. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c), from which deviation is not permitted, “[i]n 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.”

8. Respondent unlawfully rendered appraisal services in regard to the above-referenced property, 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 USPAP Standards Rule 1-1(c).

9. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-4, from which departure is permitted, “[i]n developing a real property appraisal, an appraiser must collect, verify, and analyze all information applicable to the

appraisal problem, given the scope of work identified in accordance with Standards Rule 1-2(f).

10. Respondent failed to document in the appraisal or the workfile that he collected, verified, and/or analyzed all information applicable to the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-1(b), and USPAP Standards Rule 1-4.

11. Pursuant to Uniform Standards of Professional Appraisal Practice, Standards Rule 1-4(b), from which departure is permitted, “[w]hen a cost approach is applicable, an appraiser must: (i) develop an opinion of site value by an appropriate appraisal method or technique; (ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and (iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).”

12. Respondent failed to correctly utilize the cost approach, and to articulate the manner in which he departed from such rule, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-1(b), and USPAP Standards Rule 1-4(b).

13. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-3(b), from which departure is permitted, “[w]hen the value opinion to be developed is market value, and given the scope of work identified in accordance with Standards Rule 1-2(d), and appraiser must: . . . (b) develop an opinion of the highest and best use of the real estate.”

14. Respondent failed to develop a reasonable opinion of the highest and best use of the Property, and failed to document that he analyzed the relevant legal, physical

and economic factors to the extent necessary to support Respondent's stated highest and best use of the Property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-1(b), and USPAP Standards Rule 1-3(b).

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 licensed residential real estate appraiser.

ORDER

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

1 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 Uniform Standards of Professional Appraisal Practice. Such course relating to the Uniform Standards of Professional Appraisal Practice shall be in addition to any

continuing educational course required to obtain and/or maintain licensure, or renewal of licensure thereof.

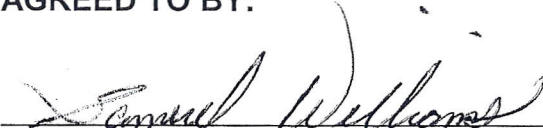
2 Respondent shall pay to the Board the amount of nine hundred and five dollars (\$905.00). Such payment by Respondent shall represent the costs incurred by the Board associated with the investigation and prosecution of Complaint Number 06-020 and the subsequent reimbursement to the Board thereof. Such payment shall be paid to the Board in full within thirty (30) days of the date of entry of the instant Consent Decree.

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 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 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 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:


SAMUEL WILLIAMS, Individually

10/8/07
DATE

ENTERED into the records of the Board this:

18th day of October, 2007.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: 
SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

October 18, 2007
DATE