

**BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD**

IN THE MATTER OF:

**PAUL K. LAUTERBACH,
Certified General Appraiser No. CG199**

CONSENT DECREE

Now comes Respondent, Paul K. Lauterbach, 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 07-018, against Lauterbach. As reflected in this Consent Decree, the parties have reached an agreement in which Lauterbach 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. Lauterbach is a certified general real estate appraiser licensed by the Board, holding license number CG199.
3. In April 2007, Lauterbach performed an appraisal of property located at Route 23 04, Harpers Ferry, Jefferson County, West Virginia, 25425 (hereinafter "Property").

4. Lauterbach appraised the value of the Property at \$505,000.00, as of April, 2007.

5. In such appraisal, Lauterbach provided incorrect and/or inadequate information relating to the Property and the appraisal.

6. Assignments of error include, but are not necessarily limited to, the following:

a. Lauterbach failed to identify and summarize relevant physical and economic attributes of the subject property;

i. Lauterbach incorrectly identified the location zoning as “single family residential,” wherein the Property was zoned as “rural/agriculture;”

ii. In the Site section of the report, Lauterbach stated “[t]he site supports 9 rental mobiles which are personal property. The income is used at 75% of actual for the land.” It is unclear to what the “income” pertains (i.e. land and improvements or land only) or why a 75% ratio is necessary. In an addendum to the report Lauterbach stated “[t]he income approach is based on 2004 estimate of income and expense items on the subject property normalized (NOI)”. However, neither the appraisal report nor the workfile contain any discernable information relating to 2004 income and expense data for the subject property;

b. Lauterbach failed to identify and summarize relevant deed restrictions that may limit the current and potential use(s) of the property and impact the type of value applicable to the assignment. Based on a Deed, dated November 1, 1999, contained within Lauterbach’s workfile, at least a portion of the subject property contained a use restriction;

c. Lauterbach failed to analyze and summarize the analysis of comparable rental data and operating data. For instance, notes within the workfile state lots rent “\$275-\$325 each - use \$300;” “SF Rent \$1,250-\$1,350 – use \$1,300;” and, “[t]he site value is based on typical rental sites in the area”. However, there are no references to comparable rental data or a summary of the analysis of the comparable rental data elsewhere within the workfile or in the appraisal report;

d. Lauterbach failed to base income and expense projections on reasonably clear evidence and employ recognized methods or techniques to produce a credible appraisal. In Lauterbach’s workfile, Lauterbach apparently used the sum of 10 mobile home lots at \$300/month and a monthly rental estimate of \$1,300 for the single family dwelling to arrive at a potential gross income (PGI) of \$51,600. As stated previously, Lauterbach stated “[t]he income approach is based on 2004 estimate of income and expense items on the subject property normalized (NOI)” in the report addendum. However, based on the analysis summarized therein, Lauterbach actually capitalized PGI rather than the net operating income (NOI). Thus, deductions for vacancy and collection loss or operating expenses such as real estate taxes, insurance and maintenance were excluded;

e. Lauterbach failed to analyze and summarize the analysis of the prior transfer(s) of the subject property. On Page 1, Lauterbach indicated the Property had sold within the previous three years of the effective date (i.e. “My research [X] did [] did not reveal any prior transfers of the subject property for the three years prior to the effective date of this appraisal”). No supporting documentation or

analysis was evident in Lauterbach's workfile nor was a summary of the analysis provided in the appraisal report;

f. Lauterbach failed to properly state the identity of the client and any intended users. Within the report, Lauterbach stated the client to be Mr. John Dorsey, Esquire. However, in Lauterbach's response to the complaint, Lauterbach stated: "I was contacted by Julie Myers the Administrator of the Estate to appraise a property with 13+ acres and 10 rental units." Lauterbach continued, "I informed Mrs. Myers that I could not evaluate the mobile homes but would appraise the home with additional contributory value for the rental sites" which further suggests that Mrs. Myers was the client or an intended user;

g. The appraisal report did not state the definition of value and cite the source of the definition;

h. Lauterbach did not adequately summarize the reasoning that supports his analyses, opinions, and conclusions. For example, in the Sales Comparison Approach the site adjustments for the comparable sales represent: comp 1: 192% adjustment, comp 2: 238% adjustment, and comp 3: 223% adjustment. Lauterbach explained within the Summary of Sales Comparison Approach on Page 2, "[n]ormal adjustments have been made for baths, size, features and acreage." Given the significance of these adjustments and their impact on the value concluded within the Sales Comparison Approach, further explanation for the basis of these adjustments is necessary. Additionally, no reconciliation of the data within the sales comparison approach was provided (i.e. which sale(s) received the greatest emphasis in

concluding the value pursuant to the sales comparison approach). Last, no reconciliation of the three approaches to value developed is provided; and

i. Lauterbach's workfile did not contain sufficient information, or reference the location of such documentation, to support the opinions and conclusions and show compliance with all other applicable Standards, particularly, those items previously referenced pertaining to Standards 1;

7. Accordingly, the estimated market value of the Property, as reflected in the appraisal, is not supportable.

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), 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 § 30-38-17 provides, in pertinent part, that "[e]ach real estate appraiser licensed or certified under this act shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal foundation."

4. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-2(e)(i), an appraiser must "[i]dentify the characteristics of the property

that are relevant to the type and definition of value and intended use of the appraisal, including: its location and physical, legal, and economic attributes.”

5. Lauterbach failed to properly identify relevant characteristics of the subject property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-2(e)(i).

6. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2(b)(iii), “[t]he content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment.”

7. Lauterbach failed to properly summarize all relevant information sufficient to identify the subject property, in regard to the physical and economic property characteristics of such property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 2-2(b)(iii).

8. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-2(e)(iv), an appraiser must “[i]dentify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including: any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature.”

9. Lauterbach failed to identify and summarize relevant deed restrictions that may limit the current and potential use(s) of the property and impact the type of value

applicable to the assignment, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-2(e)(iv), and USPAP Standards Rule 2-2(b)(iii).

10. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-4(b)(i), “[w]hen a cost approach is necessary for credible assignment results, an appraiser must: develop an opinion of site value by an appropriate appraisal method or technique.”

11. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-4(c)(i), “[w]hen an income approach is necessary for credible assignment results, an appraiser must: analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property.”

12. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-4(c)(ii), “[w]hen an income approach is necessary for credible assignment results, an appraiser must: analyze such comparable operating expense data as are available to estimate the operating expenses of the property.”

13. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-4(c)(iv), “[w]hen an income approach is necessary for credible assignment results, an appraiser must: base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.”

14. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2(b)(viii), “[t]he content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning

that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained.”

15. Lauterbach failed to analyze and summarize his analysis of comparable rental data and operating data, and did not reference comparable rental data or provide a summary of the analysis of the comparable rental data elsewhere in the appraisal or his workfile, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-4(b)(i), USPAP Standards Rule 1-4(c)(i), (ii), (iii), and USPAP Standards Rule 2-2(b)(viii).

16. Pursuant to the Uniform Standards of Professional Appraisal Practice, 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.”

17. Lauterbach failed to base income and expense projections on reasonably clear evidence and employ recognized methods or techniques to produce a credible appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-1(a), and USPAP Standards Rule 2-2(b)(viii).

18. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-5(b), “[w]hen the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business . . . analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.”

19. Lauterbach failed to analyze and summarize his analysis of the prior transfer(s) of the subject property, and no supporting documentation or analysis, or

summary thereof, was evident in Lauterbach's workfile or appraisal report, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-5(b), and USPAP Standards Rule 2-2(b)(viii).

20. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2, in reporting the results of a real property appraisal, "an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading."

21. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2(b)(i), "[t]he content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum . . . state the identity of the client and any intended users, by name or type."

22. Lauterbach failed to properly state the identity of the client and any intended users, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 2-2, and USPAP Standards Rule 2-2(b)(i).

23. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2(b)(v), "[t]he content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum . . . state the type and definition of value and cite the source of the definition."

24. In the appraisal report, Lauterbach failed to state the definition of value and cite the source of the definition, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 2-2(b)(v).

25. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-6(a), "[i]n developing a real property appraisal, an appraiser must . . .

reconcile the quality and quantity of data available and analyzed within the approaches used.”

26. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-6(b), “[i]n developing a real property appraisal, an appraiser must . . . reconcile the applicability or suitability of the approaches used to arrive at the value conclusion(s).”

27. Lauterbach neither adequately summarize of the reasoning that supports the analyses, opinions, and conclusions; adequately explained adjustments and subsequent impact on value conclusion within the sales comparison approach; provided reconciliation of the data within the sales comparison approach; nor provided reconciliation of the three approaches to value developed, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-6(a), USPAP Standards Rule 1-6(b), and USPAP Standards Rule 2-2(b)(viii).

28. Pursuant to the Uniform Standards of Professional Appraisal Practice, Ethics Rule (Record Keeping), “[a]n appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include: the name of the client and the identity, by name or type, of any other intended users; true copies of any written reports, documented on any type of media; summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser’s signed and dated certification; and all other data, information, and documentation necessary to support the appraiser’s opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.”

29. Lauterbach failed to maintain a proper workfile, in that the workfile did not contain sufficient information, or reference the location of such documentation, to support the opinions and conclusions set forth within the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Ethics Rule (Record Keeping).

CONSENT

Lauterbach, both in his individual capacity and as a certified general real estate appraiser, by the execution hereof, agrees to the following:

1. Lauterbach 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 Lauterbach to make this settlement other than as set forth herein. Lauterbach 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. Lauterbach consents to the entry of the following Order affecting his conduct as a certified general real estate appraiser.

ORDER

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

1. The real estate appraiser license of Lauterbach, License No. CG199, is hereby SUSPENDED for a period of ninety days. Respondent shall not engage in the business of real estate appraising whatsoever, either directly or indirectly, in the State of West Virginia during such period of SUSPENSION. Upon completion of the ninety day suspension period, Lauterbach's license shall be placed on probation for a period of one year.

2. Lauterbach, within ninety days of the date of entry of this order, shall successfully pass, complete, and provide to the Board all proper documentation reflecting the same, the following educational courses: a minimum fifteen hour course, with examination, approved by the Board, relating to the Uniform Standards of Professional Appraisal Practice; and a minimum thirty hour General Income Approach (Part 1) course, with examination, approved by the Board. Such courses shall be completed in addition to any continuing educational course required to obtain and/or maintain licensure, or renewal of licensure thereof.

3. During the period of probation, Lauterbach shall maintain and submit to the Board a monthly log of all appraisals performed by Lauterbach during the term of probation. The Board shall have the right to request one or more workfiles per month at random during the term of probation. If after reviewing such files the Board determines there is probable cause to pursue further action, nothing herein shall be construed to preclude the Board from doing so. At the end of the probationary period, Lauterbach shall submit to an informal interview before the Standards Committee to discuss any appraisal quality or USPAP conformity issues, if any, relating to the reports submitted by Lauterbach to the Board during Lauterbach's probationary period.

4. The Board hereby SUSPENDS Lauterbach's privileges to employ and/or supervise any real estate appraiser apprentice(s), for a period of two years, where such suspension begins upon the effective date of the instant Consent Decree.

5. Lauterbach shall pay to the Board the amount of three-thousand one-hundred and fifty dollars (\$3,150.00). Such payment by Lauterbach shall represent the costs incurred by the Board associated with the investigation and prosecution of Complaint

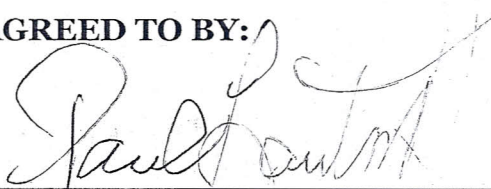
Number 07-018, and the subsequent reimbursement to the Board thereof. Such payments shall be paid to the Board in full within sixty (60) days of the date of entry of the instant Consent Decree.

6. 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 Lauterbach's license. The Board shall immediately notify Lauterbach via certified mail of the specific nature of the charges, and the suspension of Lauterbach's license. Lauterbach 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 Lauterbach's request.


In the event Lauterbach contests any such allegations of violation of the Consent Decree, if any, which results in the suspension of Lauterbach's license, Lauterbach 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 Lauterbach 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 Lauterbach's license.

AGREED TO BY:



PAUL LAUTERBACH, Individually



DATE

**BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD**

PAUL K. LAUTERBACH,

Certified General Appraiser No. CG199

**ORDER IMMEDIATELY SUSPENDING
CERTIFIED GENERAL APPRAISER LICENSE NO. CG199**

NOW COMES the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board"), and hereby **SUSPENDS**, effectively immediately, the real estate appraiser license of Paul K. Lauterbach, Certified General Appraiser License No. CG199. In support of the instant **ORDER**, the Board finds as follows:

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. Lauterbach is a certified general real estate appraiser, holding Certified General Appraiser License No. CG199, through the Board.
3. Effective January 6, 2009, for the purpose of resolving Board Complaint Number 07-018 previously filed against Lauterbach, Lauterbach entered into a Consent Decree with the Board.

4. Pursuant to the Order Section of the Consent Decree, among other things, Lauterbach agreed to the following requirement:

2. Lauterbach, within ninety days of the date of entry of this order, shall successfully pass, complete, and provide to the Board all proper documentation reflecting the same, the following educational courses: a minimum fifteen hour course, with examination, approved by the Board, relating to the Uniform Standards of Professional Appraisal Practice; and a minimum thirty hour General Income Approach (Part 1) course, with examination, approved by the Board. Such courses shall be completed in addition to any continuing educational course required to obtain and/or maintain licensure, or renewal of licensure thereof.

5. Lauterbach was required to comply with the above-referenced requirement, and provide to the Board all proper documentation reflecting that he had successfully completed a minimum fifteen hour course relating to the Uniform Standards of Professional Appraisal Practice, and a minimum thirty hour General Income Approach (Part 1) course, no later than April 6, 2009.

6. As of the date of the instant Order, Lauterbach has failed to comply with the above-referenced provision of the Consent Decree.

7. Paragraph 6 of the Order Section of the Consent Decree provides, in pertinent part, “[a]ny 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 Lauterbach's license.”

8. Lauterbach failed to obtain the written consent of the Board to deviate from the terms of the Consent Decree.

ORDER

1. The certified general real estate appraiser license of Lauterbach, Certified General License No. CG199, is hereby **SUSPENDED**, effective immediately.

2. During the pendency of the instant suspension, Lauterbach shall **CEASE** and **DESIST** in the practice of real estate appraising, and shall not engage, either directly or indirectly, in any real estate appraiser activities which otherwise require licensure through the Board.

3. Lauterbach may request reinstatement of his license through renewal of his Consent Decree, or execution of a new agreement, which may contain different or additional terms. The Board is not bound to comply with Lauterbach's request. In the event Lauterbach contests any such allegations of violation of the Consent Decree, if any, which have resulted in the suspension of Lauterbach's license, Lauterbach may request a hearing to seek reinstatement of his license. Further, given Lauterbach's failure to comply with the terms of the 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. 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.*

ENTERED into the records of the Board this:

29th day of April, 2009.

**WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

By: Sharron L. Knotts April 29, 2009
SHARRON L. KNOTTS **DATE**
EXECUTIVE DIRECTOR

ENTERED into the records of the Board this:

6th day of January, 2008.

**WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

By: Sharron L. Knotts 1/6/09
SHARRON L. KNOTTS **DATE**
EXECUTIVE DIRECTOR