

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

IN THE MATTER OF:

**DEWEY GUIDA,
Certified Residential Appraiser No. CR1027**



CONSENT DECREE

Now comes Respondent, Dewey Guida, 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 09-017, against Guida. As reflected in this Consent Decree, the parties have reached an agreement in which Guida 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 certified residential appraisers.
2. Guida is a state certified residential real estate appraiser licensed by the Board, holding license number CR1027.
3. On or around July 6, 2009, Guida performed an appraisal of residential property located in Triadelphia, West Virginia (hereinafter "Property").
4. Guida appraised the value of the Property at \$557,000.00, as of June 3, 2009.
5. The Property was comprised of 67.65 acres of land, and contained improvements, including a double-wide mobile home and chicken coops.

6. Guida stated in the appraisal that the highest and best use of the Property was as a residential property.

7. In such appraisal, Guida provided incorrect and/or inadequate information relating to the Property, the comparable properties utilized, and the appraisal.

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

- a. Guida failed to provide a summarized description of the Property's economic characteristics;
- b. Guida failed to report a summary of the results of the analysis developed for the Property's physical and economic characteristics, the neighborhood, and area economic characteristics;
- c. The three sales utilized by Guida in the sales comparison approach did not support to value opinion for the 3,614 square foot dwelling located on the Property;
- d. Guida failed to adequately consider the chicken coops located on the Property;
- e. Guida failed to provide a summary of reconciliation reported for the \$4,800 per acre land value reported within the appraisal;
- f. Although Guida stated the total depreciation for all buildings located on the Property was 12%, Guida failed to provide any supporting documentation to demonstrate how the 12% calculation was developed;
- g. Guida failed to report the actual age, effective age, or remaining economic life of the buildings and property improvements located on the Property;

- h. Guida failed to summarize the information supporting the interpretations and statements of economic conditions, supply and demand for the area, or the physical adaptability of the real estate or the market area trends;
 - i. Guida failed to provide sufficient information within the appraisal report to support the stated highest and best use;
 - j. Guida failed to summarize the existing property improvements or the property potential for any use that could be considered commercial versus any other potential uses;
 - k. Guida incorrectly reported multiple intended uses for the assignment;
 - l. Guida incorrectly reported multiple definitions of value;
 - m. Guida failed to provide a reconciliation or adequate reasoning for the final opinions of value for each approach developed, and there was no summary of information or analysis for the final value opinion;
 - n. Guida failed to develop sufficient information to support the assignment results of the appraisal;
9. As a result of such errors, the appraised value of the Property 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. 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.

3. Pursuant to the Uniform Standards of Professional Appraisal Practice (hereinafter "USPAP"), Competency Rule:

[p]rior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively, must: 1) disclose the lack of knowledge and/or experience to the client before accepting the assignment; 2) take all steps necessary or appropriate to complete the assignment competently; and 3) describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

4. Guida failed to have the knowledge and experience to complete the appraisal of the Property competently; failed to disclose the lack of knowledge and/or experience to the client before accepting the assignment; failed to take all steps necessary or appropriate to complete the assignment competently; and failed to describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Competency Rule.

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. Guida failed to correctly employ appropriate methods and techniques necessary to produce an accurate appraisal of the subject property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-1(a).

7. 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.”

8. By failing to adequately consider and develop all appropriate and necessary information within the analysis of the appraisal, Guida committed substantial errors of omission or commission that significantly affected the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-1(b).

9. Pursuant to USPAP, Standards Rule 1-1(c), “[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.”

10. Guida rendered appraisal services in regard to the above-referenced property, where such services contained error affecting the accuracy of said appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-1(c).

11. Pursuant to USPAP, Standards Rule 1-2(e): ♦

[i]n developing a real property appraisal, an appraiser must . . . identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal,¹⁰ including: (I) its location and physical, legal, and economic attributes; (ii) the real property interest to be valued; (iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal; (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and (v) whether the subject property is a fractional interest, physical segment, or partial holding.

12. Guida failed to adequately describe the property improvements and subject site, and failed to adequately provide support for the subject property's highest and best use, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-2(e).

13. Pursuant to USPAP, Standards Rule 1-3(a), "[w]hen necessary for credible assignment results in developing a market value opinion, an appraiser must: . . . identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends."

14. Guida failed to properly summarize the information supporting the interpretations and statements of the economic conditions, supply and demand for the area, and the physical adaptability of the real estate or market area trend, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-3(a).

15. Pursuant to USPAP, Standards Rule 1-3(b), "[w]hen necessary for credible assignment results in developing a market value opinion, an appraiser must: . . . develop an opinion of the highest and best use of the real estate."

16. Guida failed to properly summarize the support and rationale for the highest and best use of the subject property reported in the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-3(b).

17. Pursuant to USPAP, Standards Rule 1-4(a), "[w]hen a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion."

18. Guida improperly failed to analyze and make appropriate adjustments for the comparison properties utilized in the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-4(a).

19. Pursuant to USPAP, Standards Rule 1-4(b):

[w]hen a cost approach is necessary for credible assignment results, 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).

20. In utilizing sales listed as vacant sites, Guida failed to apply a qualitative or quantitative adjustment process to support the site value opinion value per acre as stated in the report, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-4(b)(I).

21. In utilizing the Marshall Valuation Service and costs from local contractors, Guida failed to provide support within the total costs for the replacement cost new for the improvements, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-4(b)(ii).

22. Guida failed to describe and justify the improvements depreciation percentage utilized in the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-4(b)(iii).

23. Pursuant to USPAP, 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.”

24. Guida failed to summarize and describe information sufficient to support the value opinions reported for the approaches to value within the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-6(a).

25. Pursuant to USPAP, Standards Rule 1-6(b), “[r]econile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).”

26. Guida failed to provide a correlation summary of the results from one approach to another within Guida’s conclusions to value, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-6(b).

27. Pursuant to USPAP, Standards Rule 2-1(b), “[c]ontain sufficient information to enable the intended users of the appraisal to understand the report properly.”

28. Guida failed to provide sufficient information within the appraisal to enable the intended user of the appraisal to understand the report properly, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 2-1(b).

29. Pursuant to USPAP, 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: (iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment.”

30. Guida failed to properly summarize information sufficient to identify the Property within the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 2-2(b)(iii).

31. Pursuant to USPAP, 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.”

32. Guida improperly reported multiple definitions of market value within the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 2-2(b)(v).

33. Pursuant to USPAP, Standards Rule 2-2(b)(vii), “[t]he content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: summarize the scope of work used to develop the appraisal.”

34. Guida failed to provide the information in summary format, thereby rendering it unknown as to whether the scope of work was properly developed within the appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 2-2(b)(vii).

35. Pursuant to USPAP, 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.

36. Guida failed to report the information contained within the appraisal in an acceptable summary format, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 2-2(b)(viii).

37. Pursuant to USPAP, Standards Rule 2-2(b)(ix), “[t]he content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: state the use of the real estate existing as of the date of value and the use of the

real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion.”

38. Guida failed to summarize the support of rationale for the reported highest and best use of the Property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 2-2(b)(ix).

CONSENT

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

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

ORDER

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

1. Guida shall be restricted, and otherwise limited, to performing only real estate appraisals relating to single family residential properties, and shall not perform any non-single family residential property appraisals, either directly or indirectly, until such time Guida complies with Order Paragraphs No. 2 and 4, as set forth herein.

2. Guida shall successfully pass, complete, and provide to the Board all proper documentation reflecting the same, the following courses with examination: Appraisal Institute Course "Advanced Residential Applications and Case Studies, Part 1 and 2;" and Appraisal Institute Course "Advanced Residential Report Writing, Part 2." Upon successful completion of such courses, and compliance with the instant Order, the Board shall dissolve the above-referenced restriction of licensure. Such courses shall be in addition to any continuing educational course required to obtain and/or maintain licensure, or renewal of licensure thereof.

3. Guida, within one year 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 course with examination: Appraisal Institute Course "Sale Comparison Valuation of Small Mixed-Use Properties," or its equivalent. Such course shall be in addition to any continuing educational course required to obtain and/or maintain licensure, or renewal of licensure thereof.

4. Guida shall pay to the Board the amount of two-thousand and two-hundred dollars (\$2,200.00). Such payment by Guida shall represent the costs incurred by the Board associated with the investigation and prosecution of Complaint Number 09-017, and the subsequent reimbursement to the Board thereof. Such payment shall be paid to the Board in full within sixty (60) days of the date of entry of the instant Consent Decree.

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

Guida 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 Guida's request.

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

AGREED TO BY:


DEWEY GUIDA, Individually

12/13/10
DATE

ENTERED into the records of the Board this:

12th day of December, 2010.

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

By:


**SHARRON L. KNOTTS
EXECUTIVE DIRECTOR**

DATE

Dec 12, 2010