

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

IN THE MATTER OF:

**STANLEY MCQUADE
Licensed Residential Appraiser License No. LR0756**

CONSENT DECREE

Now comes Respondent, Stanley McQuade, 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 09-018, against McQuade. As reflected in this Consent Decree, the parties have reached an agreement in which McQuade 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. McQuade is a state licensed residential real estate appraiser licensed by the Board, holding license number LR0756.
3. In March 2009, McQuade performed an appraisal of property located in Daniels, West Virginia (hereinafter "Property").
4. McQuade appraised the Property "as is."

5. McQuade stated on the appraisal that the highest and best use of the Property was residential.

6. The Property was located on approximately 87.45 acres.

7. The Property included a newly built residential home, two barns, a two car detached garage, and a 50' by 100' horse riding ring.

8. The Property additionally included an old residential home.

9. In the appraisal report, McQuade acknowledged that the appraisal assignment constituted a "complex assignment."

10. In the appraisal report, McQuade treated "the majority of the subject's land . . . as excess land"

11. In appraising the Property, McQuade developed both the market and cost approaches.

12. As of March 2009, McQuade appraised the value of the Property at \$510,600.

13. In such appraisal, Respondent committed certain errors, and performed a flawed analysis relating to the property, the comparable properties, and the appraisal.

14. Assignments of error included, but are not necessarily limited to, the following:

a. Given that McQuade appraised the Property as if the old residential home did not exist on the Property, McQuade failed to properly utilize a hypothetical condition within the appraisal;

b. McQuade failed to provide adequate support for the value attributed to the excess land;

c. McQuade failed to provide support for the \$28,500 value opinion for the home site;

d. McQuade erroneously failed to assign value, contributory or otherwise, to the two barns and riding ring within the sales approach, explaining within the report that the value of the same "cannot be determined in the Sales Approach from lack of data in the market of the subject;"

e. Within the sales approach of the appraisal of the Property, McQuade appraised the Property as if the barns and riding ring did not exist;

f. In regard to the barns and the riding ring, McQuade did not utilize any hypothetical conditions that would otherwise explain McQuade's failure to consider the same within the sales approach;

g. Within the appraisal, McQuade did not perform any adjustments relating to the comparables utilized in regard to the barns and riding ring; and

h. Within the appraisal, McQuade inadequately considered and failed to properly develop an opinion relating to the excess land of the Property.

15. Given the complex nature of the appraisal, and McQuade's license designation, McQuade appraised a property that was outside of the scope of his licensure.

16. McQuade failed to take all steps necessary or appropriate to complete the assignment competently.

17. As a result, the conclusions arrived at by McQuade within the appraisal are inaccurate and/or 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 West Virginia Code § 30-38-4(b), “[a] state licensed residential real estate appraiser is authorized to conduct appraisals of: (1) Complex residential real estate of one to four units having a value of less than two hundred fifty thousand dollars; (2) noncomplex residential real estate of one to four units having a value of less than one million dollars; and (3) nonresidential real estate having a value of less than one hundred thousand dollars.”
3. 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.
4. McQuade, as a licensed residential real estate appraiser, operated outside of the scope of his licensure by and through completing the appraisal of the above-referenced complex property, where the value of such complex property exceeded \$250,000.00, in violation of W. Va. Code §§ 30-38-12(a)(7), 30-38-13(b), and 30-38-4(b).
5. 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.

6. McQuade failed, without good cause, to competently develop, prepare and communicate the appraisal of the Property in violation of W. Va. Code § 30-38-12(a)(11).

7. 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.”

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

9. McQuade 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.

10. 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.”

11. McQuade 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).

12. 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.”

13. By failing to consider improvements within the sales approach, McQuade 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).

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

15. McQuade 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).

16. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-2(g), “[i]n developing a real property appraisal, an appraiser must . . . identify any hypothetical conditions necessary in the assignment.”

17. In developing the appraisal, McQuade failed to properly identify any hypothetical conditions relating to certain improvements located on the Property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-2(g).

18. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-1(b), “[e]ach written or oral real property appraisal report must: contain sufficient information to enable the intended users of the appraisal to understand the report properly.”

19. Based upon the foregoing, McQuade failed to present sufficient information to enable the intended users 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).

20. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2(b)(x), “[t]he content of a summary appraisal report must be consistent with the intended use of the appraisal and, at a minimum: . . . when the purpose of the assignment is market value, summarize the support and rationale for the appraiser’s opinion of the highest and best use of the real estate.”

21. In the appraisal report, McQuade failed to adequately summarize the support and rationale for McQuade’s opinion of the 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)(x).

CONSENT

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

1. McQuade 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 McQuade to make this settlement other than as set forth herein. McQuade 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. McQuade 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. McQuade's licensed residential real estate appraiser license shall be placed on probation for a period of one year, where such probation shall begin on the date of execution of the instant Consent Decree.

2. McQuade shall maintain and submit to the Board a monthly log of all appraisals performed by McQuade during the term of probation. The Board shall have the right to request one work file 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, McQuade 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 McQuade to the Board during McQuade's probationary period.

3. McQuade shall be prohibited from performing any real estate appraisal, other than the appraisal of single-family, non-complex properties, either directly or indirectly, where such prohibition additionally includes the performance of any review of any appraisal, until such time McQuade successfully complies with Order Paragraph No. 4 as set forth herein.

4. McQuade 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, and a minimum twenty (20) hour course, with examination, approved by the Board relating to mastering unique and complex property appraising. Upon successful completion of such courses, 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.

5. McQuade shall pay to the Board the amount of one thousand and four hundred dollars (\$ 1,400.00). Such payment by McQuade shall represent the costs incurred by the Board associated with the investigation and prosecution of Complaint Number 09-018, and the subsequent reimbursement to the Board thereof. Additionally, McQuade shall pay a fine in the amount of five hundred dollars (\$500.00) to the State of West Virginia. Such payments shall be paid and forwarded 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 McQuade's license. The Board shall immediately notify McQuade via certified mail of the specific nature of the charges, and the suspension of McQuade's license. McQuade 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 McQuade's request.

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

AGREED TO BY:

Stanley J. McQuade
STANLEY MCQUADE, Individually

03/15/2010
DATE

ENTERED into the records of the Board this:

17th day of March, 2010.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: Sharron L. Knotts
SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

3/17/10
DATE