

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

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

Complainant,

v.

COMPLAINT NO.: 12-010

BARRY WISE,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board") and Barry Wise (hereinafter "Respondent"), for the purpose of resolving the above-styled matter.

Whereas, the parties mutually desire to settle this issue without further prosecution and a formal hearing.

It is hereby stipulated and agreed between the undersigned parties that this matter be settled and resolved. The parties have reached an understanding concerning the proper disposition of the matter in controversy. The Board, approving such an agreement does hereby Find and Order as follows:

FINDINGS OF FACT

1. That the Board is the State entity created by West Virginia Code § 30-38-1 *et seq.* and is empowered to regulate the practice of real estate appraising.
2. That the Respondent is a licensee of the Board, possessing Licensed Residential Appraiser Number LRO811 and is subject to the license requirements of the Board.

3. That on May 14, 2012, the Board received a complaint alleging that the Respondent had violated West Virginia law and numerous rules of the Uniform Standards of Professional Appraisal Practice (hereinafter "USPAP"), which resulted in a gross over evaluation of the 408.862 acres of land located at New River (Sandstone Area), Raleigh County, West Virginia (hereinafter "subject property").

4. That on May 15, 2012, the above complaint was sent to the Respondent along with a cover letter directing him to send the Board a copy of the "complete appraisal report as submitted to the client and a copy of the complete work file, including all communications with the client and your scope of work."

5. That on June 7, 2012, the Board received a response from the Respondent.

6. The first allegation listed in the complaint stated that the Respondent "is not licensed to value this level of property (complex or non-complex)."

7. That in a letter dated June 5, 2012 from the Respondent to Sandra Kerns, Executive Director to the Board, the Respondent states the "Client aware of my license limitations."

8. The Respondent concluded that the market value of the subject property was One Million Thirty-nine Thousand Dollars (\$1,039,000.00).

CONCLUSION OF LAW

1. That the Board has jurisdiction to take disciplinary action against the Respondent.

2. That pursuant to West Virginia Code § 30-38-1 *et seq.*, the Board may revoke a license, suspend a license, reprimand a licensee or take other disciplinary action for violation of the rules and regulations of the Board.

3. The Respondent is a licensee of the West Virginia Real Estate Appraiser Licensing and Certification Board and is subject to license requirements of the Board.

4. That the Respondent is a licensed residential real estate appraiser which authorizes him 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) non-complex 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. *W. Va. Code § 30-38-4.*

5. The subject property in this matter was valued at over One Million Dollars and appears to be complex.

6. That in a letter dated March 24, 2011, the Respondent wrote that he informed the client that the assignment exceeded his licensure, however, the client requested him to proceed with the appraisal.

7. That the Board contends that based on the above that the Respondent has violated the provisions of West Virginia Code § 30-38-1 *et seq.* and the regulations promulgated thereunder in the State of West Virginia and accordingly is subject to disciplinary action.

8. That specifically, the Respondent conducted the appraisal of the subject property which was outside the scope of the license granted to the Respondent by the Board.

9. The parties mutually agree to resolve this pending matter without further prosecution.

CONSENT OF LICENSEE

The Respondent by affixing his signature hereto, acknowledges the following:

1. That he has the following rights, among others: the right to a formal hearing before the West Virginia Real Estate Appraiser Licensing and Certification Board; the right to reasonable notice of said hearing; the right to be represented by counsel at his own expense; and the right to cross examine witnesses against him.

2. That he waives all rights to such a hearing.

3. That he has had the opportunity to consult with counsel and executes this Consent Decree and Order voluntarily, freely, without coercion or duress and is mindful that it has legal consequences.

4. That no person or entity has made any promise or given any inducement whatsoever to encourage him to enter into this Consent Decree and Order other than as set forth herein.

5. That he acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and he is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

6. That he waives any defenses including, but not limited to, laches, statute of limitations, and estoppel, that he may have otherwise claimed as a condition of this Consent Decree and Order.

7. That he acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Consent Decree and Order have been met to the satisfaction of the Board.

8. That he acknowledges that he is aware that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public under Chapter 29B *et seq.*, of the West Virginia Code, Freedom of Information Act and may be reported to other governmental, professional Boards or organizations.

9. That he acknowledges that this Consent Decree and Order shall be presented to the Board as soon as practical but no later than the next scheduled meeting of the Board, with a recommendation for approval from the Standards Committee.

10. The Respondent, by affixing his signature hereon, consents and agrees to the following terms and conditions.

ACCEPTANCE BY THE BOARD

This Consent Decree and Order will not be submitted for Board consideration until after it has been agreed to and executed by the Respondent. The Consent Decree shall not become effective until it has been approved by the Board and endorsed by a representative member of the Board.

ORDER

That the Board agrees to forego further prosecution of the complaint pursuant to the Consent Decree between the Board and Respondent, and hereby ORDERS as follows:

1. That the Respondent shall receive a written reprimand.
2. The Respondent shall within one year complete and provide to the Board all proper documentation reflecting that he has successfully completed, with exam, the Fifteen

hour National USPAP course. Completion of this course shall be over and above the regular continuing education hours required by the rules and regulations of the Board.

3. That the Respondent shall reimburse the Board the sum of One Thousand Five Hundred Dollars (\$1,500.00) for the costs incurred by the Board associated with the investigation and prosecution of this matter. Such payment shall be paid to the Board upon entry of this Consent Decree and Order.

4. The Respondent shall be assessed a fine of in the amount of Two Thousand Five Hundred Dollars (\$2,500.00). Such payment shall be paid to the Board in monthly installments of Five Hundred Dollars (\$500.00) commencing June 1, 2013 and continuing each and every month thereafter until paid in full.

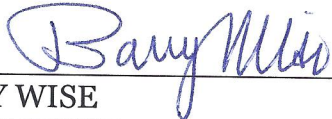
5. The Respondent's failure to fully comply with the terms and conditions of this Consent Decree and Order may be deemed a violation of the same, and the Board may take immediately action to suspend the Respondent's license.

Entered this 13th day of JUNE, 2013.



R. SCOTT BARBER, CHAIR
WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

REVIEWED AND APPROVED BY:

 4-28-13

BARRY WISE
RESPONDENT