

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

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

**Complainant,**

**v.**

**COMPLAINT NO.: 12-028**

**BANE E. SARRETT,**

**Respondent.**

**CONSENT DECREE AND ORDER**

Now comes the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board") and Bane E. Sarrett (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.

Whereas, the Board acknowledges that the claims herein are disputed by the Respondent, and that his agreement and consent to these terms do not constitute an admission of guilt or culpability on his part.

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. 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 (USPAP) promulgated by the Appraisal Foundation.
3. That the Respondent is a licensee of the Board, possessing Certified General Appraiser Number CG191 and is subject to the license requirements of the Board.
4. That on November 13, 2012, the Board received a complaint alleging that the Respondent had prepared "four appraisal reports. On all reports appraiser's certification number is incorrect. On all reports the highest and best use is vague and not clearly identified. The client and intended users are not identified. There are questionable size adjustments."

5. That on November 27, 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."

6. That on December 27, 2012, the Board received a response from the Respondent.

7. As part of its investigation of the complaint, the Board's Standards Committee held an informal meeting with the Respondent on March 3, 2013 to discuss the appraisals.

8. The Respondent is from Raleigh County and the properties appraised were in Mercer County.

9. The subject properties in this matter consisted of vacant lots and a lot that contained a parking garage.

10. The Respondent acknowledged that he was not familiar with the Mercer County market nor the type of property on which he conducted his appraisals.

11. The Respondent acknowledged that he was unable to find comparable sales geographically close to the subject properties.

12. The Respondent acknowledged that the adjustments on land sales is excessive.

## 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 certified general real estate appraiser which authorizes him to conduct appraisals of all types of real estate. W. Va. Code § 30-38-4.
5. That the Respondent was not geographically competent to prepare the appraisal on the subject properties.
6. That there was no rationale for the adjustments made. Further the adjustments made were applied inconsistently and exceeded the acceptable range of industry standards.
7. That the choice of comparables utilized by the Respondent were not comparable to the subject properties in that the characteristics and location were not similar to the subject properties.

8. As a result of such alleged errors, the appraised value of the property may not be supportable.

9. The appraisal report was deficient in that the Respondent failed to detail the information necessary to arrive at the conclusions and the report failed to detail a summary of methods and techniques recognized as necessary for the development of credible value opinions.

10. 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."

11. 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."

12. Pursuant to USPAP, 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."

13. 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. The Respondent shall be prohibited from performing any nonresidential real estate appraisals either directly or indirectly, until such time he complies with Paragraph No. 2 of this Order as set forth below.

2. The Respondent shall within one year complete and provide to the Board all proper documentation reflecting that he has successfully completed, with exam, Thirty (30) hours in Appraisal Institute Course General Site Valuation and Cost Approach and Thirty (30) hours in Appraisal Institute Course General Appraiser Sales Comparison Approach or their Board approved equivalents. Completion of these courses shall be over and above the regular continuing education hours required by the rules and regulations of the Board.

3. That the Respondent shall return to the client the appraisal fee received, said fee shall be returned on or before April 15, 2014.

4. 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.



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 29<sup>th</sup> day of OCTOBER 2013.



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

REVIEWED AND APPROVED BY:



BANE E. SARRETT (License No.: CG191)  
RESPONDENT