

BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD

WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD,

Complainant,

v.

COMPLAINT NO.: 13-018

RANDALL E. SINCLAIR,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board") and Randall Sinclair (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 Certified Residential Appraiser Number CR0167 and is subject to the license requirements of the Board.

3. That pursuant to W. Va. Code § 30-38-1 *et seq.*, the Board may revoke a license, suspend a license, reprimand a licensee or take other disciplinary action as deemed appropriate by the Board.

4. Specifically, W. Va. Code § 30-38-12(a)(11), provides the Board “may suspend, revoke, . . . a license for failing 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”.

5. The Uniform Standards of Professional Appraisal Practice, (USPAP) Standards Rule 1-1(a), states that “[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. 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.

7. On December 13, 2013, the Board received a complaint on two appraisal reports prepared by the Respondent, one dated May 20, 2013 for property located at 101 Paddock Green Drive, New Martinsville, West Virginia and the other dated July 22, 2013 for property located at 215 East Street, Middlebourne, West Virginia.

8. The appraisals contained various USPAP and statutory violations.
9. The Respondent failed to correctly employ appropriate methods and techniques necessary to produce an accurate appraisal of the subject property, including but not limited to violations of W. Va. Code §§ 30-38-12(a)(7), 30-38-17, and USPAP Standards Rule 1-1(c), 1-3(a), 1-4(a) and 2-2(b).
10. The Respondent acknowledged that there may have been issues, but believes none of the issues made a material amount of change in value.

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. 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 affects the credibility of those results”.
5. 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 has 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 below.

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 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 complete and provide to the Board all proper documentation reflecting that he has successfully completed, with exam, the thirty (30) hour Basic Appraisal Procedures Course or the Board approved equivalents. 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 Two Thousand Dollars (\$2,000.00) for the costs incurred by the Board associated with the investigation and prosecution of this matter. Such payment shall be paid to the Board in full within thirty (30) days of the date of entry of the instant Consent Decree and Order.

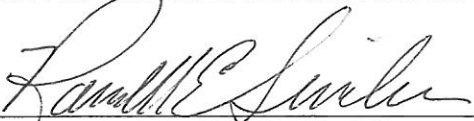
4. The Respondent's failure to fully comply with the terms and conditions of this Consent Decree and Order may be deemed a violation of the same, and the Board may take immediately action to suspend the Respondent's license.

Entered this 17th day of SEPTEMBER 2014.



GLENN SUMMERS, VICE CHAIR
WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

REVIEWED AND APPROVED BY:



RANDALL E. SINCLAIR (License No.: CR0167)
RESPONDENT