

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

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

**Complainant,**

v.

**COMPLAINT NO.: 15-009**

**CHARLES E. SMITH,**

**Respondent.**

**CONSENT DECREE AND ORDER**

Now comes the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter ABoard@) and Charles E. Smith (hereinafter ARespondent@), 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 to 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 holds an apprentice permit, Apprentice Number A10631 and is subject to the requirements of the Board.

3. The Respondent submitted an application, along with his experience log, seeking to be upgraded from an apprentice to a licensed residential appraiser.

4. From the experience log of the Respondent, the Upgrades Committee of the Board requested a copy of the appraisal for an apartment building property located at 138 Brick Lane, Cross Lanes, West Virginia; however, the Respondent sent the appraisal report for a residential property located at 140 Brick Lane, Cross Lanes, West Virginia.

5. The Board, once again, requested the appraisal report for 138 Brick Lane, Cross Lanes, West Virginia, which subsequently was provided for review by the Upgrades Committee.

6. Upon review of the appraisal report and work file for 138 Brick Lane, Cross Lanes, West Virginia, the Upgrades Committee determined that the property assignment was for nine (9) units with 2, 4-unit buildings and a single family residence, which the Upgrades Committee believed that the appraisal reports were outside the scope of the license of the Respondent's supervisor and reported the matter to the Board.

7. The Respondent was listed as assisting the appraiser supervisor on the 138 Brick Lane properties; however, on the appraisal for the 140 Brick Lane property, the Respondent signed the report as the appraiser.

#### CONCLUSION OF LAW

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

2. Pursuant to West Virginia Code ' 30-38-1 *et seq.*, the Board may revoke, suspend, reprimand or take other disciplinary action for violation of the rules and regulations of the Board.

3. The Respondent holds a permit issued by the West Virginia Real Estate Appraiser Licensing and Certification Board and is subject to the requirements of the Board.

4. The Respondent signed the appraisal report for the property located at 140 Brick Lane, Cross Lanes, West Virginia as if he was an appraiser in violation of W. Va. Code R. 190-2-11.7(c).

5. The Respondent's appraiser supervisor is a certified residential real estate appraiser authorized to conduct appraisals of residential real estate of one to four units without regard to value or complexity, and nonresidential real estate when the value is less than one hundred thousand dollars. W. Va. Code ' 30-38-4.

6. The Respondent's appraiser supervisor operated outside the scope of her licensure by and through completing the appraisals for the properties located at 138 Brick Lane, Apt # 1-4, Cross Lanes, West Virginia; 138 Brick Lane, Apt # 5-8, Cross Lanes, West Virginia and 140 Brick Lane, Cross Lanes, West Virginia.

7. The Board contends that based on the above, 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. 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 applying for an upgrade for a period of six (6) months commencing October 14, 2015 and ending on April 14, 2016.
2. The Respondent shall complete and provide to the Board all proper documentation reflecting that he has successfully completed, the AQB Supervisor Appraiser/Trainee Appraiser Course within thirty (30) days after entry of this Consent Decree and Order. This course shall be completed regardless of whether the Respondent has previously taken the course.
3. The Respondent shall not be permitted to claim any experience hours for the appraisals of the properties located and identified as 138 Brick Lane Apt # 1-4, Cross Lanes, West Virginia; 138 Brick Lane Apt # 5-8, Cross Lanes, West Virginia and 140 Brick Lane, Cross Lanes, West Virginia.
4. That the Respondent shall reimburse the Board the sum of Five Hundred Dollars

