

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

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

Complainant,

v.

COMPLAINT NO.: 15-010

CYNTHIA J. WALTON,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board") and Cynthia J. Walton (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 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 is a licensee of the Board, possessing certified Residential

Appraiser Number CR1071 and is subject to the license requirements of the Board.

3. That on or around April 23-24, 2015, the Respondent performed an appraisal of property located at 138 Brick Lane, Cross Lanes, West Virginia and 140 Brick Lane, Cross Lanes, West Virginia.

4. The engagement letter listed the legal description of the property as “[t]his property is a 9 units (sic) with 2, 4-unit buildings and a single family residence.

5. The Respondent completed two separate appraisal reports for the 138 Brick Lane property using Form 1025 for each and identifying the property as 138 Brick Lane Apt 1-4 and Brick Lane #5-8, however; these two apartment buildings are on one parcel of land.

6. The property located at 140 Brick Lane was completed on a 1004 form - single family dwelling and is being sold, along the eight unit apartment buildings located at 138 Brick Lane, in one purchase agreement.

7. The Respondent concluded the estimated value is as follows for subject properties:

A. 138 Brick Lane Apt # 1-4
\$195,000 Sales Comparison Approach
\$204,000 Income Approach

B. 138 Brick Lane Apt # 5-8
\$195,000 Sales Comparison Approach
\$204,000 Income Approach

C. 140 Brick Lane
\$54,000 Sales Comparison Approach
\$54,000 Income Approach

8. The Respondent was assisted by an apprentice who was duly noted within each appraisal; however, on the appraisal for the 140 Brick Lane property, the Respondent permitted the apprentice to sign the report as the appraiser.

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 the license requirements of the Board.
4. The Respondent 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.
5. The Respondent, as a certified residential real estate appraiser, operated outside the scope of her licensure by and through completing the appraisals on the above properties.
6. The Respondent improperly supervised her apprentice, by permitting him to assist with appraisals that were outside the scope of her license, as well as, permitting the apprentice to sign one of the appraisal reports as if he was a licensed appraiser.
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 her signature hereto acknowledges the following:

1. That she 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 her own expense; and the right to cross examine witnesses against her.
2. That she waives all rights to such a hearing.
3. That she 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 her to enter into this Consent Decree and Order other than as set forth herein.
5. That she acknowledges that she is aware that she may pursue this matter through appropriate administrative and/or court proceedings, and she is aware of her legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.
6. That she waives any defenses including, but not limited to, laches, statute of limitations, and estoppel, that she may have otherwise claimed as a condition of this Consent Decree and Order.
7. That she 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 she acknowledges that she 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 she 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 her 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 license of the Respondent shall be suspended for a period of thirty (30) calendar days, said suspension shall commence on March 1, 2016 and terminate on March 30, 2016.


2. That during the thirty (30) day suspension, the Respondent shall not perform any appraisal work, either directly or indirectly.

3. The Respondent shall within thirty (30) days complete and provide to the Board all proper documentation reflecting that she has successfully completed, with exam, the 15-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.

4. That the Respondent shall reimburse the Board the sum of Six Hundred Dollars (\$600.00) for the costs incurred by the Board associated with the investigation and prosecution of this matter. Such payment shall be paid to the Board within thirty (30) days after 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 1ST day of MARCH 2016.



GLENN SUMMERS
WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

REVIEWED AND APPROVED BY:

 2/26/2016

CYNTHIA J. WALTON (CR1071) Date
RESPONDENT