

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

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

Complainant,

v.

Complaint Number 03-016

RALPH GUYNN,

Respondent.

CONSENT DECREE

NOW COMES the West Virginia Real Estate Real Estate Appraiser Licensing and Certification Board (hereinafter "Board"), by Sharron L. Knotts, its Executive Director, and by its counsel, Gregory G. Skinner, Assistant Attorney General, for the purpose of resolving Board Complaint Number 03-016, against Ralph Guynn (hereinafter "Respondent"). As reflected in this Consent Decree, the parties have reached an agreement in which Respondent hereby agrees and stipulates to the Findings of Fact and Conclusions of Law set forth in the instant Consent Decree concerning the proper disposition of this matter, and the Board, having approved such agreement, does hereby find and Order as follows:

FINDINGS OF FACT

1. The Board is a state entity created by W. Va. Code § 30-38-1, et seq., and is empowered to regulate, among other things, the conduct of licensed residential appraisers.

2. Respondent is a state licensed residential real estate appraiser licensed by the Board, holding license number 0700.

3. On April 7, 2003, Respondent signed a Consent Decree resolving Complaint Number 02-014B filed against Respondent with the Board.

4. Complaint Number 02-014B concerned an appraisal of residential property, performed by Respondent, located at 1006 Lakeview Drive, Parkersburg, West Virginia.

5. In Complaint Number 02-014B, the Board alleged, among other things, that Respondent utilized inappropriate comparables, overvalued the property, committed error that affected the integrity of the appraisal, rendered appraisal services in a careless or negligent manner, and committed errors that, in aggregate, affected the credibility of the appraisal.

6. By and through the consummation of the above-referenced Consent Decree, Respondent agreed to comply with all applicable laws and regulations, and to take all appropriate measures to ensure such violations of law, as outlined by Complaint Number 02-014B and the Consent Decree, did not occur again.

406 19th Street, Dunbar, West Virginia 25064

7. On or around July 27, 2003, less than four (4) months after signing the above-referenced Consent Decree, as a licensed real estate appraiser, Respondent performed an appraisal of the property located at 406 19th Street, Dunbar, West Virginia 25064.

8. Respondent provided inaccurate information in regard to the comparables utilized in the appraisal conducted by Respondent of the property located at 406 19th Street, Dunbar, West Virginia 25064.

9. Such inaccurate information provided by Respondent includes, but is not necessarily limited to, inaccurately citing and providing comparables' photographs, distance from subject property, vehicle size of a garage, closing date of sale, and lot size.

10. The individual adjustments performed by Respondent on the comparables utilized in the appraisal report are neither reasonable nor supportable.

11. Respondent provided inaccurate information in regard to the subject property for which Respondent appraised, including, but not necessarily limited to, effective age, lot size, neighborhood analysis, whether property was located in a FEMA flood zone hazard area, FEMA zone qualification, FEMA map number, FEMA map date and tax year.

12. Respondent failed to include information in regard to the subject property for which Respondent appraised, including, but not necessarily limited to, legal description, assessor's parcel number, real estate taxes, map reference, census tract, and whether functional obsolescence was considered in the appraisal.

13. Respondent inadequately developed the cost approach within the appraisal, by and through the use of inadequate information, an underestimated effective age of the property, and an overestimation of the contributory value of site improvements.

14. As a result, Respondent's estimated market value of the subject property is not reasonable as of the date of the appraisal.

815 Hudson Street, Saint Albans, West Virginia 25177

15. On or around July 25, 2002, as a licensed real estate appraiser, Respondent performed an appraisal of the property located at 815 Hudson Street, Saint Albans, West Virginia 25177.

16. Respondent provided inaccurate information in regard to the subject property for which Respondent appraised, including, but not necessarily limited to, zoning classification, effective age, neighborhood analysis, whether property was located in a FEMA flood zone hazard area, FEMA zone qualification, FEMA map number, FEMA map date and tax year.

17. Respondent failed to include information in regard to the subject property for which Respondent appraised, including, but not necessarily limited to, legal description, assessor's parcel number, real estate taxes, map reference, census tract, lot size, and storm sewers.

18. Respondent improperly utilized incorrect information and data from Marshall and Swift Handbook regarding the cost for new dwelling and a finished basement.

19. Respondent inadequately and improperly developed the cost approach within the appraisal, by and through the use of inadequate information, an underestimated effective age of the property, and that the residential property is fifty (50) years old.

20. Respondent utilized comparables that were inappropriate, superior to the subject property, and not comparable to the subject property, where more appropriate and reasonable comparable residential properties were available.

21. As a result, Respondent's estimated market value of the subject property is not reasonable as of the date of the appraisal.

Criminal Background Record

22. On or around March 12, 1991, Respondent was convicted of a felony criminal charge, and sentenced pursuant to a Sentencing Order, in Criminal Felony Case Number 90-F-62, in the Circuit Court of Marion County.

23. The felony stems from an indictment for the offense of aggravated robbery and assault while being armed with a dangerous and deadly weapon.

24. On March 26, 1999, the Board received an application for apprentice permit from Respondent.

25. All Board applications for an apprentice permit or appraiser license require an applicant to disclose whether the applicant has been convicted of a felony or not.

26. On said application, Respondent specifically denied that Respondent had ever been convicted of a felony.

27. Respondent submitted renewal applications for an apprentice permit and a real estate appraiser license for the licensing years of 1999-2000, 2000-2001, 2001-2002, 2002-2003, and 2003-2004.

28. All Board renewal applications for apprentice permits and appraiser licenses require the applicant to disclose whether the applicant has been convicted of a felony or not.

29. On such renewal applications, Respondent specifically denied that Respondent had ever been convicted of a felony.

CONCLUSIONS OF LAW

1. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke or otherwise discipline a licensee's real estate appraiser license pursuant to W. Va. Code §§ 30-38-12 and 30-38-13.

2. West Virginia Code § 30-38-12(a)(11) provides that "[f]ailing 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," is grounds for disciplinary action, including, but not limited to, revocation or suspension of license.

3. West Virginia Code § 30-38-12(a)(7) provides that "[v]iolation of any section of this article, or any rule of the board" is grounds for disciplinary action, including, but not limited to, revocation or suspension of license.

4. 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 promulgated by the appraisal foundation."

5. Pursuant to the Uniform Standards of Professional Appraisal Practice, Ethics Rule, Conduct (2001), in pertinent part, "[a]n appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate

a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.”

6. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(a), from which deviation is not permitted, “[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.”

7. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(b), from which deviation is not permitted, “[i]n developing a real property appraisal, an appraiser must . . . not commit a substantial error of omission or commission that significantly affects an appraisal.”

8. Pursuant to the Uniform Standards of Professional Appraisal Practice, 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.”

9. Pursuant to 190 C.S.R. § 2-4.1.d., every person who applies to be classified as a licensed or certified real estate appraiser shall . . . not have been found guilty or pled guilty, regardless of adjudication, in any jurisdiction, of a misdemeanor involving moral turpitude or of any felony.

10. West Virginia Code § 30-38-12(a)(1) provides that “procuring or attempting to procure license or certification under this article by knowingly making a false statement, submitting false information or making a material misrepresentation in an application filed with the Board, or procuring or attempting to procure a license or certification through fraud

or misrepresentation" is grounds for disciplinary action, including, but not limited to, revocation or suspension of license.

11. Respondent unlawfully failed, without good cause, to develop, prepare and communicate credible and accurate appraisals in relation to the above-referenced properties in violation of W. Va. Code § 30-38-12(a)(11).

12. Respondent unlawfully communicated appraisal assignment results of the above-referenced properties in a misleading or fraudulent manner in violation of W. Va. Code §§ 30-38-12(a)(7), -17 and USPAP Ethics Rule (Conduct).

13. Respondent unlawfully failed to be aware of, understand, and correctly employ appropriate methods and techniques necessary to produce a credible appraisal of the subject property, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, and USPAP Standards Rule 1-1(a).

14. Respondent unlawfully rendered appraisal services in regard to the above-referenced properties, where such services contained error affecting the integrity and credibility of said appraisals, in violation of W. Va. Code §§ 30-38-12(a)(7), -17, USPAP Standards Rule 1-1(b), and USPAP Standards Rule 1-1(c).

15. Respondent unlawfully misrepresented to the Board that Respondent did not have a felony conviction on his record, when, in fact, Respondent previously had been convicted of a felony, in violation of W. Va. Code § 30-38-12(a)(1) and 190 C.S.R. § 2-4.1.d.

CONSENT

Respondent, both in his individual capacity and as a licensed residential appraiser, by the execution hereof, agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it

has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent consents to the entry of the following Order affecting his conduct as a state licensed residential real estate appraiser.

ORDER

On the basis of the foregoing, the Board hereby ORDERS as follows:

1. The real estate appraiser license of Respondent, License No. 0700, is hereby SUSPENDED for a period of sixty (60) days. Respondent shall not engage in the business of real estate appraising whatsoever, either directly or indirectly, in the State of West Virginia during such period of SUSPENSION.

2. Upon completion of suspension of Respondent's license, Respondent's license shall be placed on probation for a period of one (1) year.

3. Respondent shall maintain and submit to the Board a monthly log of all appraisals performed by Respondent during the term of probation. The Board shall have the right to request workfiles at random during the term of probation. If after reviewing such files the Board determines there is probable cause to pursue further disciplinary action, nothing herein shall be construed to preclude the Board from doing so.

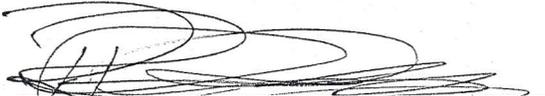
4. Respondent, within thirty (30) days of the date of entry of this order, shall pay to the Board the amount of one thousand four hundred and eighty one dollars (\$1,481.00). Such payment by Respondent shall represent the costs incurred by the Board associated

with the investigation and prosecution of the instant complaint, and the subsequent reimbursement to the Board thereof.

5. In the event Respondent violates the terms of this Consent Decree, and, subsequent to notice and hearing, the Board so finds a violation, then, in such event, the events giving rise to this Consent Decree shall be considered in the determination of the kind and extent of sanctions to be subsequently imposed. Such possibility of enhancement shall be effective during the pendency of the instant restrictions placed upon Respondent's license subsequent to the entry of this Order.

6. The instant Consent Decree shall become effective, including the commencement of all applicable time frames set forth herein, upon the date the Consent Decree is signed by Respondent, as reflected below.

AGREED TO BY:


RALPH GYNN, Individually

January 20, 2005
DATE

ENTERED into the records of the Board this:

24th day of January, 2005.

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

By: 
SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

Jan 24 2005
DATE