

**Before the
New Hampshire Board of Real Estate Appraisers
Concord, New Hampshire 03301**

In The Matter Of:

Case No.: 10.36

Patrick Ganley
License No.: NHCR-420
(Adjudicatory/Disciplinary Proceeding)

FINAL DECISION AND ORDER

Before the New Hampshire Board of Real Estate Appraisers (“Board”) is an adjudicatory/disciplinary proceeding in the Matter of Patrick Ganley (“Respondent” or “Mr. Ganley”) in Docket Number 10.36.

Background Information:

On or about November 1, 2010, a grievance was filed with the Board’s office. The grievance involved an appraisal written by the Respondent on a property located at 30 Pond Road, Raymond, New Hampshire, 03077. Subsequent to an investigation, on May 13, 2011, the Board issued a Notice of Hearing scheduled for July 22, 2011. On July 13, 2011 the hearing was postponed due to a lack of quorum. On September 8, 2011 an amendment to notice of hearing was issued for October 14, 2011. This hearing indeed occurred on October 14, 2011.

On Friday, October 14, 2011, at 10:07 a.m., the Board commenced with the adjudicatory/disciplinary hearing in the above captioned matter. Board members present¹ were:

Brian Underwood, Appraiser Member (Certified General Appraiser), Chairperson, Presiding Officer

Kathy Hildreth, Banking Commissioner Designee Member

Len Gerzon, Public Member

Rick Burgess, NH Lending Institution Representative Member

Kevin Fritschy, Appraiser Member (Certified Residential Appraiser)

¹ These same Board members also deliberated and voted on this Final Decision and Order.

The Grievance Officer was recused Board Member Peggy Gallus (Real Estate Appraiser). The Respondent was present for the hearing.

The following exhibits were introduced into evidence and accepted into the record:

- Hearing Counsel's exhibits: Exhibit 1-New Hampshire Real Estate Appraisal Board Grievance Form. Attached Appraisal, addenda outlining support for grievance, addenda.
- Exhibit 2-30 Pond Road, Raymond, NH, Appraisal.
- Exhibit 3-Appraisers work file.
- Exhibit 4-Investigators, Appraisal Review Report.
- The Respondent's exhibits: The Respondent did not provide exhibits.

Findings of Fact:

The Board heard testimony from Mark Correnti, an investigator the Board's Grievance Officer assigned to this grievance. Mr. Correnti submitted an Appraisal Review Report ("ARR") to the Board on January 18, 2011. This ARR was the basis for the Board to issue the Notice of Hearing and is incorporated within the Notice of Hearing as the allegations. The Board finds Mr. Correnti's testimony at the hearing was professional, forthright and credible.

The Board also heard testimony from Patrick Ganley.

In light of the testimony and exhibits, the Board finds the following facts:

1. The Respondent was granted a certificate to complete residential appraisals in the State of New Hampshire on July 1, 1996. The Respondent's license status is current.
2. On September 15, 2010, the Respondent appraised a property located at 30 Pond Road, Raymond, New Hampshire, 03077

Rulings of Law:

Applicable Laws:

RSA 310-B:18 Disciplinary Proceedings states in pertinent part:

The board may revoke or suspend a licensure or certification; may assess a fine of not more than \$2,000 per violation or, in the case of a continuing violation, \$100 for each day the violation continues, whichever would be greater; may require mandatory completion of continuing education; or may take any combination of the preceding actions, relating to any real estate appraiser, in accordance with the provisions of this chapter, upon any of the grounds set forth in this section for any of the following acts or omissions:

...

VII. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal.

VIII. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal, as determined by the board.

RSA 310-B:18-a Standards for Professional Conduct states:

For purposes of RSA 310-B:18, the Uniform Standards of Professional Appraisal Practice (USPAP) ethical and professional conduct standards in effect at the time of the appraisal assignment shall be the ethical and professional conduct standards to be followed at the time of any violation.

Rab 501.01 Purpose states:

The purpose of this chapter is to establish a New Hampshire code of ethics by which all licensed and certified real estate appraisers shall abide. This code is, pursuant to RSA 310-B: 18-a, as set forth in the then-current version of USPAP.

USPAP Standards Rule, SR 1-1 [a] [b] [i], SR 1-2 [e], SR 1-4, SR 1-4 [a], SR 2-2 [b] [ix] states:

SR 1-1 In developing a real property appraisal, an appraiser must: [a] be aware of understanding and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal, [b] When a cost approach is necessary for credible assignment results, an appraiser must [i] develop an opinion of site value by an appropriate appraisal method or technique.

SR 1-2 [e] In developing a real property appraisal, an appraiser must: identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including: [i] its location and physical, legal and economic attributes.

SR 1-4 In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results. SR 1-4 [a] When a sales comparison

approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

SR 2-2[b][ix] state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and when an opinion of the highest and best use was developed by the appraiser, summarize the support and rationale for that opinion.

Rulings:

The Board makes the following findings by a preponderance of the evidence:

1. The Board finds that the Respondent has violated SR 1-1 [a] [b] [i].

The Respondent did not show a credible understanding for the basis of the quality of construction adjustments made in the Sales Comparison Approach. [a] Major violation.

The Respondent did not provide credible site value. [b][i] Minor violation.

2. The Board finds that the Respondent has violated SR 1-2 [e] [i].

The Respondent misstated the subject's physical attributes, septic system. Minor violation.

3. The Board finds that the Respondent has violated SR 1-4 [a].

The Respondent did not show a credible understanding of the subject's market segment based on the exclusion of relevant sales. Major violation.

4. The Board finds that the Respondent has violated SR 2-2[b][ix].

The Respondent did not summarize the support and rationale for the, "Highest and Best Use" opinion. Minor violation.

Disciplinary Action:

Based upon the Findings of Facts and Rulings of Law above, the Board has voted to order the following:

IT IS ORDERED that the Respondent is REPRIMANDED.

IT IS FURTHER ORDERED that the Respondent is assessed an ADMINISTRATIVE FINE in the amount of three thousand dollars (\$3,000) due within thirty (30) days of the effective date of

this Order. The payment shall be made in the form of a money order or bank check made payable to "Treasurer, State of New Hampshire" and delivered to the Board's office at the Joint Board, 57 Regional Drive, Concord, NH 03301.

IT IS FURTHER ORDERED that the Respondent completes a fifteen (15) hour USPAP course due within ninety (90) days of the effective date of this order. Within fifteen (15) days of completing the course, Respondent shall notify the Board and provide written proof of completion.

IT IS FURTHER ORDERED that the Respondent's failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d), and a separate and sufficient basis for further disciplinary action by the Board against the Respondent.

IT IS FURTHER ORDERED that this Final Decision and Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Final Decision and Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

*\BY ORDER OF THE NEW HAMPSHIRE
BOARD OF REAL ESTATE APPRAISERS

Date: 1/23/2012


(Signature)

Louise Lavertu, Executive Director
Authorized Representative of the
New Hampshire Real Estate Appraisers Board

*\ Peggy Gallus, Board member, recused.