

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney



_____)
In the Matter of)
)
Louisiana Real Estate Appraisers Board,)
Respondent)
_____)

Docket No. 9374

**RESPONDENT LOUISIANA REAL ESTATE APPRAISERS BOARD’S
MOTION FOR EXPEDITED REVIEW**

Pursuant to Federal Trade Commission Rules of Practices 16 C.F.R. § 3.22, Respondent Louisiana Real Estate Appraisers Board (“LREAB” or “the Board”), through undersigned counsel, hereby moves the Commission for expedited review of the Board’s concurrently filed Motion to Stay Pending Judicial Review of the “Opinion and Order of the Commission” dated April 10, 2018 (“Order”). Complaint Counsel declined to agree to an expedited schedule for the filing of its opposition, but stated they would not oppose the request for an expedited decision by the Commission on LREAB’s Motion to Stay.

Special circumstances necessitate expedited review of Respondent’s Motion to Stay. The Commission’s Order denied the Board’s Motion to Dismiss and granted Complaint Counsel’s Motion for Partial Summary Judgment, thereby dismissing the Board’s affirmative defenses relating to state action immunity under *Parker v. Brown*, 317 U.S. 341 (1943). The Board filed a Petition for Review with the U.S. Court of Appeals for the Fifth Circuit, and the Commission is ordinarily allowed forty days to file the record after it is served the petition by the Circuit Court. Fed. R. App. P. 17(a). That forty days would elapse in early June, just days before the scheduled

start of the administrative hearing on June 11, 2018. *See* Second Revised Scheduling Order (Jan. 24, 2018).

LREAB therefore filed a Motion to Stay Pending Judicial Review with the Commission. Under ordinary timing, Complaint Counsel's Response would not be due until May 2, 2018, and a Commission decision would not be required for additional 45 days, June 18, 2018 – one week after the scheduled commencement of the hearing. *See* 16 C.F.R. § 3.22(a), (d).

The Board files this Motion out of an abundance of caution, and because good cause exists for expedited briefing and decision on whether to stay Part 3 proceedings pending appellate review. A decision made after the start of trial would effectively render Respondent's Motion to Stay meaningless, and would violate the principles of judicial economy which underlie divestiture of the Commission's jurisdiction following the filing of the administrative record. 15 U.S.C. § 45(c)-(d); *cf. also South Carolina Bd. of Dentistry v. FTC*, 455 F.3d 436, 440 n.5 (4th Cir. 2006) ("practical construction" governs appellate review under § 45(c)). Moreover, LREAB has been diligent in filing its Petition for Review just nine days after the date of the Order and in filing the motions seeking a stay the following day.

Hence, for good cause shown and the reasons stated above, the Board respectfully requests that the Commission: (1) order that Complaint Counsel's response to the Board's Motion to Stay Pending Judicial Review be due no later than April 25, 2018; and (2) render a decision on the Board's Motion to Stay Pending Judicial Review on or before May 2, 2018.

If the Commission does not grant this Motion, LREAB respectfully requests that the Commission issue its order denying this motion by May 2, 2018, and state therein the date upon which the Commission would render its decision. This would enable LREAB to determine

whether it may be necessary to request a stay from the Fifth Circuit under Fed. R. App. P.
18(a)(2).

A proposed order is attached.

Dated: April 20, 2018

Respectfully submitted,

/s/ W. Stephen Cannon

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

Louisiana Real Estate Appraisers Board,
Respondent

Docket No. 9374

[PROPOSED] ORDER ON RESPONDENT'S MOTION FOR EXPEDITED REVIEW

On April 20, 2018, Respondent filed a Motion for Expedited Review of Respondent's Motion for Stay Pending Judicial Review. Good cause having been show, the motion is hereby GRANTED:

- 1) Complaint Counsel's Response to Respondent's Motion for Stay Pending Judicial Review shall be due no later than April 25, 2018; and
- 2) The Commission shall render a decision on Respondent's Motion for Stay Pending Judicial Review on or before May 2, 2018.

By the Commission.

Donald S. Clark
Secretary

ISSUED:

Notice of Electronic Service

I hereby certify that on April 20, 2018, I filed an electronic copy of the foregoing Respondent's Motion for Expedited Review, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
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Donald Clark
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I hereby certify that on April 20, 2018, I served via E-Service an electronic copy of the foregoing Respondent's Motion for Expedited Review, upon:

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