

INTERLOCUTORY, MODIFYING,
VACATING, AND MISCELLANEOUS
ORDERS

IN THE MATTER OF

**LOUISIANA REAL ESTATE APPRAISERS
BOARD**

Docket No. 9374. Order, January 10, 2018

Order scheduling oral argument on Respondent's Motion to Dismiss Complaint and Complaint Counsel's Motion for Partial Summary Decision.

ORDER SCHEDULING CONSOLIDATED ORAL ARGUMENT AND
EXTENDING DEADLINES FOR COMMISSION RULINGS

On November 27, 2017, Respondent Louisiana Real Estate Appraisers Board filed a Motion to Dismiss Complaint in this proceeding. On that same date, Complaint Counsel submitted a Motion for Partial Summary Decision. Both motions raise issues regarding application of the state action doctrine. Respondent's Motion argues that re-promulgation of a regulation, establishment of new procedures, and various steps to address ongoing or prospective effects of prior regulation – all of which have occurred after issuance of the Commission's Complaint – bring Respondent's activities within the scope of the state action doctrine and render this proceeding moot. Complaint Counsel's Motion seeks summary determination that two of Respondent's defenses – asserting that "[t]he Complaint fails adequately to allege that the Board has a controlling number of active participants in the relevant **residential** appraisal market" (emphasis in original) and that "LREAB is immune from antitrust liability under *Parker v. Brown*, 317 U.S. 341 (1943)" – should be dismissed. Each party has since opposed the other's motion and has filed a timely Reply in support of its own motion.

Respondent has requested oral argument regarding its Motion to Dismiss, and we believe that entertaining oral argument on both motions would be beneficial. Although both parties should be prepared to address all issues raised by both motions, we

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instruct the parties to focus their attention during the oral argument on the following question:

Since the issuance of the Complaint, has the State of Louisiana taken sufficient steps to establish active supervision over the conduct of the Respondent at issue in this matter?

The Commission has determined to conduct the oral argument on Thursday, February 22, 2018, at 2:00 p.m. in Hearing Room 532 of the Headquarters Building of the Federal Trade Commission, located at 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Each side will be allotted 30 minutes to present its argument. Respondent will have the opportunity to open the argument and will be permitted to reserve time for rebuttal. The Commission's deadlines for ruling upon the motions, currently 45 days after the respective Reply filings, will be adjusted to a date 45 days after the oral argument. Accordingly,

IT IS HEREBY ORDERED that the Commission will conduct oral argument regarding Respondent's Motion to Dismiss Complaint and Complaint Counsel's Motion for Partial Summary Decision on February 22, 2018, as specified above; and

IT IS FURTHER ORDERED that the Commission's deadlines for ruling on Respondent's Motion to Dismiss Complaint and Complaint Counsel's Motion for Partial Summary Decision are extended to April 9, 2018.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**LOUISIANA REAL ESTATE APPRAISERS
BOARD**

Docket No. 9374. Order, January 12, 2018

Order denying Respondent's motion to stay proceeding.

**ORDER DENYING RESPONDENT'S EXPEDITED MOTION TO STAY
PART 3 ADMINISTRATIVE PROCEEDING AND MOVE THE
EVIDENTIARY HEARING DATE**

On January 10, 2018, the Commission issued an order scheduling oral argument on two pending motions in this proceeding – a Motion to Dismiss Complaint, filed by Respondent Louisiana Real Estate Appraisers Board, and a Motion for Partial Summary Decision, filed by Complaint Counsel (“the pending motions”). The Commission’s order scheduled oral argument on February 22, 2018, and moved the deadlines for the Commission’s rulings on the pending motions to April 9, 2018.

One day later, Respondent moved (1) to stay the administrative proceeding until the Commission renders its decisions on the pending motions and (2) to delay the start of the evidentiary hearing from May 30, 2018, to August 27, 2018. Respondent argues that granting its motion would avoid expenses of pretrial activity, including discovery and the preparation of expert reports, that might prove unnecessary, depending on how the Commission resolves the pending motions. Respondent further asserts that the delay it seeks would not prejudice the public interest. In opposing Respondent’s motion, Complaint Counsel argues that Commission rules contemplate proceeding with discovery and other pretrial activities without delay and that Respondent has identified no unusual circumstances that would warrant a stay.

Commission Rule of Practice 3.22(b), 16 C.F.R. § 3.22(b) states in relevant part: “A motion under consideration by the Commission shall not stay proceedings before the Administrative Law Judge unless the Commission so orders” When the