

FILED
SEP 20 2022
DEPARTMENT OF REAL ESTATE
By J. Taggart

In the Matter of the Application of:)	DRE No. H-07139 SAC
)	
NATALIE CHRISTINE MADRIZ,)	OAH No. 2022050942
)	
)	
Respondent.)	

The Proposed Decision dated August 5, 2022, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on OCT 10 2022.

IT IS SO ORDERED 9.12.22

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
SEP 07 2022
DEPARTMENT OF REAL ESTATE
BY *J. Taggart*

In the Matter of the Application of:

NATALIE CHRISTINE MADRIZ, Respondent

Agency Case No. H-7139 SAC

OAH Case No. 2022050942

PROPOSED DECISION

Wim van Rooyen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 26, 2022, from Sacramento, California.

Kyle T. Jones, Legal Counsel, represented Tricia D. Parkhurst (complainant), Supervising Special Investigator for the Department of Real Estate (Department), State of California.

Natalie Christine Madriz (respondent) appeared and represented herself.

Evidence was received, the record closed, and the matter submitted for decision on July 26, 2022.

FACTUAL FINDINGS

Jurisdiction

1. On June 2, 2021, respondent signed, and subsequently filed with the Department, an application for a real estate salesperson license (application). The application remains pending, and no license has been issued.

2. On May 11, 2022, complainant, acting in her official capacity, filed the Statement of Issues seeking to deny respondent's application. The Statement of Issues alleges cause based on respondent's conviction of a crime substantially related to the qualifications, functions, or duties of a real estate licensee.

3. Respondent timely filed a Notice of Defense. The matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Conviction

4. On June 13, 2019, in the Superior Court of California, County of Sacramento, Case No. 19MI009065, respondent was convicted on a nolo contendere plea of violating Health and Safety Code section 11358, subdivision (c) (unlawfully planting, cultivating, harvesting, drying, or processing more than six living marijuana plants), a misdemeanor. Respondent was sentenced to serve 30 days in county jail, pay a fine, and serve three years of informal probation.

5. The police report concerning the events giving rise to the June 2019 conviction is heavily redacted and contains only the following sparse information: In March 2019, the Sacramento Police Department received an anonymous tip regarding

an illegal outdoor marijuana grow at 961 Opal Lane. On April 15, 2019, officers visited that property and discovered 564 living marijuana plants. While on scene, police contacted respondent's son, who represented that respondent was the person responsible for the outdoor marijuana grow. The officers also discovered "items of indicia" at other nearby properties owned by respondent: 3108 Rio Linda Boulevard and 937 Opal Lane. The report does not identify what the "items of indicia" were. The officers issued respondent a citation and released her from custody.

Conviction Detail Report

6. On December 14, 2021, respondent signed and thereafter submitted to the Department a conviction detail report related to her application. In that report, she provided the following details regarding her conduct:

I rented a property to a person who grew marijuana, without my knowledge. As the owner I was found ultimately responsible.

[...]

I did not commit this crime. I was responsible for it for being the owner.

Hearing Testimony

7. Respondent is presently 51 years old. She was born in Los Angeles, but raised by her grandparents in Mexico. At age 18, respondent returned to the United States and shortly thereafter fell in love with her present husband, a practicing civil engineer. Together, they have nine children. Four of respondent's children presently reside with her and her husband in the home; two are in college and the other two are

still minors. For most of her married life, respondent has been a homemaker and "totally dedicated to her family."

8. Since approximately 2003 or 2004, respondent has owned seven properties in Sacramento in close proximity to each other. Three are lots with houses (3108 Rio Linda Boulevard; 3135 Branch Street; and 951 Sonoma Avenue) and four are empty lots (937 Opal Lane, 961 Opal Lane, 3130 Rio Linda Boulevard, and 901 Sonoma Avenue).

9. In late 2018 or early 2019, respondent agreed to rent 961 Opal Lane to tenants who represented that they wanted to grow tomatoes on the property to sell at local farmer's markets. The tenants paid respondent \$500 per month. The tenants built a greenhouse structure on the property and commenced their growing operations. Although respondent was living at the nearby 3135 Branch Street property at the time, she had no idea that the tenants were growing marijuana at 961 Opal Lane. She was unable to see into the greenhouse and never smelled any marijuana. She only became aware of the illegal marijuana grow when the police knocked on her door on April 15, 2019.

10. When asked about the "items of indicia" police discovered at 3108 Rio Linda Boulevard and 937 Opal Lane, respondent stated that she does not know what such items were. However, if such items were drug paraphernalia, they might have belonged to her oldest son. Unlike his siblings, who all did well in school and/or their careers, her oldest adult son has made some "bad choices" in life and is still "trying to find his feet." He has used marijuana, has previously been incarcerated, and has also been homeless for periods of time. In April 2019, she and her husband allowed her oldest son to live at 3108 Rio Linda Boulevard. Respondent also does not know why her oldest son blamed her for the illegal marijuana grow. She believes her son might

have panicked and pointed blame at respondent, because he feared police would hold him responsible given his history.

11. Although respondent denies any prior knowledge or involvement with the illegal marijuana grow, she admits and accepts full responsibility for her criminal conviction. She acknowledges that as the property owner, it was her obligation to ensure that 961 Opal Lane was not being used for illegal purposes. She was naïve, too trusting, and did not sufficiently scrutinize the renters' operations. In the future, she would not be so gullible or trusting.

12. Respondent completed 30 days of community service as an alternative to her jail sentence. She continues to pay \$1,320 a month towards her \$99,000 fine, of which approximately \$60,000 remains unpaid. She intends to pay off the entire amount over several more years. She successfully completed her criminal probation in June 2022, without any probation violations. Respondent's conviction has not yet been expunged.

13. Apart from the June 2019 conviction, respondent has a clean criminal record. She has had no subsequent convictions or negative interactions with law enforcement. Respondent has never used marijuana or any illicit drugs. She does not smoke cigarettes or consume any alcohol.

14. Respondent applied for a real estate salesperson license, because she has been interested in real estate since she and her husband bought their first home. She enjoyed learning about the buying/selling process. She was immensely proud when she passed the real estate examination. Additionally, respondent strongly desires to enter the workforce after having been a homemaker for most of her life. Her husband is 20 years older and intends to retire from civil engineering in the near future. If

granted a license, respondent intends to supplement the couple's income after her husband's retirement. Because she speaks Spanish fluently, she believes she can also make a difference by working with underserved communities in which clients do not speak English well.

15. While waiting for the outcome in this matter, respondent has taken some classes on operating a facility for the elderly but has not started any formal licensing process. She believes she will have to undergo a similar review of her criminal history through the Department of Social Services if she were to pursue that line of work. Additionally, respondent occasionally picks up trash in her community and feeds the homeless.

Analysis

CAUSE FOR DENIAL

16. The Department may deny a license to an applicant who has been convicted of a crime substantially related to the qualifications, functions, or duties of a real estate licensee within the preceding seven years from the date of application. (Bus. & Prof. Code, §§ 480, subd. (a)(1), & 10177, subd. (b).)¹ A crime is deemed substantially related "if it involves: . . . (8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another." (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).)

¹ All further statutory references are to the Business and Professions Code, unless otherwise specified.

17. Here, the June 2019 conviction occurred within the last seven years. Respondent pled nolo contendere to the underlying crime, which involved unlawfully planting, cultivating, harvesting, drying, or processing 564 living marijuana plants. The quantity involved far exceeds any personal use need and indicates commercial growth. The conviction thus evidences an intent of conferring a financial or economic benefit upon the perpetrator. As such, respondent was convicted of a substantially related crime in the past seven years. Accordingly, cause exists to deny respondent's application pursuant to sections 480, subdivision (a)(1), and 10177, subdivision (b).

REHABILITATION

18. The Department has adopted criteria to consider when evaluating the rehabilitation of an applicant for a real estate license. (Cal. Code Regs., tit. 10, § 2911, subd. (a).) Relevant criteria include: (1) the time that has elapsed since commission of the crimes; (2) successful completion or early discharge from probation or parole; (3) payment of fines; (4) expungement of criminal convictions; (5) stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction; (6) completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement; (7) significant and conscientious involvement in community, church, or privately-sponsored programs designed to provide social benefits or to ameliorate social problems; and (8) change in attitude from that which existed at the time of the commission of the crimes.

19. Here, over three years have passed since respondent's June 2019 conviction. Although the conviction has not yet been expunged, she successfully completed her criminal sentence and is no longer on criminal probation. She continues making substantial monthly payments towards her fine and intends to pay off the entire amount.

20. Ordinarily, it would be concerning that respondent denies having had personal involvement with the illegal marijuana grow underlying her conviction. An attempt to impeach a prior conviction is improper and generally viewed as failure to accept responsibility. (*Seide v. Com. of Bar Examiners of the State Bar of Cal.* (1989) 49 Cal.3d 933, 940 ["Fully acknowledging the wrongfulness of [one's] actions is an essential step towards rehabilitation."].) However, respondent's forthright testimony and sincere demeanor at hearing, as well as her complete lack of any criminal history or prior involvement with drugs, render her account credible. Moreover, she emphasized that she accepts responsibility for her conviction, because she acknowledges her obligation as a property owner to prevent illegal activity on her properties. She is remorseful, admits that she was naïve and exercised poor judgment, and has learned from the experience.

21. Respondent has a stable family life. She lives with her husband, a civil engineer, and four of her nine children. She continues to be a homemaker, caring for her two minor children. Respondent has recently sought to develop her own career in real estate to further support her family, passing the real estate examination. Although respondent does not engage in regular community service, she occasionally picks up trash in her community and feeds the homeless.

22. When the record as a whole is considered, respondent has demonstrated sufficient rehabilitation to be issued a license. Nevertheless, given respondent's prior poor judgment and her only recently completing criminal probation, it is appropriate to issue a restricted license for a period of three years. Such additional monitoring is adequate to address any lingering concerns and protect the public interest.

LEGAL CONCLUSIONS

1. Respondent has the burden of proving by a preponderance of the evidence that she is fit for the license she seeks and that her application should be granted. (Evid. Code, § 115.)

2. Based on the Factual Findings as a whole, and specifically, Factual Findings 16 and 17, cause exists to deny respondent's application pursuant to sections 480, subdivision (a)(1), and 10177, subdivision (b).

3. Based on the Factual Findings as a whole, and specifically, Factual Findings 18 through 22, respondent has shown that she is sufficiently rehabilitated to be granted a restricted license consistent with public safety and welfare, pursuant to the terms outlined below.

ORDER

The application of respondent Natalie Christine Madriz for a real estate salesperson license in the State of California is DENIED; provided, however, a RESTRICTED real estate salesperson license SHALL BE ISSUED to respondent pursuant to Business and Professions Code section 10156.5. The restricted license shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions, and restrictions imposed under authority of Business and Professions Code section 10156.6:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of: (a)

the conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or (b) the receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to this restricted license.

2. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested, and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify as follows: (a) that the employing broker has read the Decision which is the basis for the issuance of the restricted license; and (b) that the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

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4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until three (3) years have elapsed from the date of issuance of the restricted license to respondent.

DATE: August 5, 2022

Wim van Rooyen

WIM VAN ROOYEN

Administrative Law Judge

Office of Administrative Hearings