

Matilde Miller, Interim Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
February 13, 2017
General Meeting**

Chair Evalyn “Fran” Oreto called the meeting of the Florida Real Estate Appraisal Board to order at approximately 8:35 a.m., in Orlando, Florida, on this Tuesday, the 13th day of February, 2017.

The following Board members were present: Chair Fran Oreto, Vice-Chair Tamara McKee, Members Benjamin Bush, Cristy Conolly, Armando del Valle, Joshua Harris, Clay Ketcham, and Janet Rabin. Michael Roy had an excused absence. Assistant Attorney General Rachel Clark appeared as counsel for the Board. Director Watkins declared a quorum present.

Department and Division staff present at the meeting: Juana Watkins, Director; Lori Crawford, Executive Director; Joshua Kendrick, Chief Attorney, Allison McDonald, Deputy Chief Attorney. Joe Helton, Neal Lawson, and William Vogel, Assistant General Counsels appeared by video conference; Jocelyn Pomales, OMCII; Susan Bailey, Administrative Assistant II, Johanne Knudson, and Beverly Ridenauer, Government Analysts. Ms. Vicki Metcalf, Appraisal Subcommittee Policy Manager. American Court Reporting, Inc. (407.896.1813) provided court reporter services.

General Session
Approval of Minutes

The minutes of the December 5, 2016 General Meeting were presented. Mr. Ketcham moved, seconded by Mr. Bush to approve the minutes as amended. The motion carried without dissent.

Nominations for 2017 Chair and Vice-Chair

Chair Oreto opened the floor for nominations for Chair for 2017. Mr. del Valle nominated Vice-Chair McKee as Chair. Ms. McKee declined the nomination. Mr. Ketcham nominated Mr. Bush as Chair. Mr. Bush declined the nomination. Mr. Ketcham nominated Mr. del Valle as Chair. Mr. del Valle declined nomination. Mr. del Valle nominated Mr. Ketcham. Mr. Ketcham accepted the nomination. With no other nominations, Mr. del Valle moved, seconded by Ms. McKee, the motion carried unanimously.

Chair Oreto opened the floor for nominations for Vice-Chair for 2017. Ms. Oreto nominated Mr. Roy. There being no other nominations, Ms. Oreto moved; Mr. Bush seconded; motion carried unanimously.

Reports

Director Watkins presented the Exam Performance and Licensee Count reports and addressed questions from the Board.

Legal Case Report

Ms. McDonald presented the Year Old Case report to the Board and addressed questions and comments from the Board.

Rules Report

Board Counsel Clark provided the Rules Report for February 2016.

Legal Appearance Docket

The Board addressed the Legal Appearance Docket, hearing 3 docket items with the following results:

Tab B – Case No. 2016005839, Mario L. Alvarez – Motion for Waiver and Entry of a Final Order

Mario L. Alvarez was not present and was not represented by counsel. Mr. Ketcham and Mr. Bush were recused due to participation on the probable cause panel.

Mr. Helton represented the Department and presented the case to the Board. The Board granted the waiver and entered into discussion. Following discussion, Mr. del Valle moved; Mr. Rabin seconded; motion carried unanimously to impose the following:

Penalty imposed: Revocation. **Violation:** Florida Statutes 475.624(4) by failing to provide the Department with a copy of the Appraisal Report work file upon reasonable notice.

Tab C – Case No. 2016007970, Karen Marie Berger – Motion for Waiver and Entry of a Final Order

Karen Marie Berger was not present and was not represented by counsel. Ms. Oreto and Mr. Del Valle were recused due to participation on the probable cause panel.

Mr. Vogel represented the Department and presented the case to the Board. The Board granted the waiver and entered into discussion. Following discussion, Mr. Bush moved; Ms. McKee seconded; motion carried unanimously to impose the following:

Penalty imposed: Fine of \$750.00; investigative costs of \$272.25, completion of 3-hour Florida Laws and Rules course; 12-month probationary period with early termination language. **Violation:** Florida Statutes 475.624(1) by failing to inform the Board in writing after pleading nolo contendere to Reckless Driving in Case Number 073793XDMTES, Driving Under the Influence in Case Number 076790XAUTES, Disorderly Conduct in Case Number 1006218MMAWS, Violation of Pretrial Release in Case Number 1100600MMAWS-17, and Disorderly Conduct in Case Number 1108060MMAWS-17.

Tab A – Case No. 2016030391, Daniel Evans Rogers – Respondent's Request for Informal

Daniel Evans Rogers was not present but was represented by counsel, Daniel Villazon. Ms. McKee was recused due to participation on the probable cause panel.

Mr. Lawson represented the Department and presented the case to the Board. The Board granted the informal hearing and entered into discussion. Following discussion, Mr. Harris moved; Mr. Bush seconded; motion failed with a split vote of 3 yay and 4 nay votes to accept the proposed settlement stipulation.

The Board further discussed the issue. Mr. Harris moved, Ms. Conolly seconded; motion carried to reject the proposed settlement stipulation. Following discussion, Mr. Harris moved; Mr. Bush seconded; motion carried for the following:

Action Taken: Rejected proposed Settlement Stipulation and offered the following counter-stipulation to be accepted or rejected within 30 days:

Administrative fine of \$1,000.00; investigative costs of \$495.00, to be paid within 12 months and will include a reprimand. **Violation(s):** Florida Statutes 475.624(1) by failure to disclose in writing having pled nolo contendere to Battery Domestic Violence in Case Number 2015M005063A, Petit Theft in Case Number 2015MM005064A, Violation of Injunction for Protection Against Stalking in Case Number 2015MM006618A, and Petit Theft in Case Number 2015MM009033A.

General Session Continued
Petitions for Variance or Waiver

Petition for Rule Variance of Section 61J1-4.010(1) (b) (c), Florida Administrative Code – VW 2016-279 received from Mr. John C. Gibaloro

Director Watkins introduced the Petition. Ms. Clark reminded the Board of the statutory guidelines. Mr. Gibaloro was present to address the Board regarding his Petition for Variance or Waiver.

The Board discussed the petition, noting that due to changes in the Appraiser Qualification Guidelines no exemption from Subsection (b) is required. Following discussion, Ms. McKee moved to grant the waiver for Subsection (c) of the rule based upon the hardship as demonstrated by the Petitioner in this particular instance. Mr. Harris seconded and the motion carried unanimously.

Summary of Applicants Agenda - New Applicants

- A. Tanya K. Batten – Registered Trainee Appraiser – The applicant was present and responded to questions from the Board. Following discussion Mr. del Valle moved, Mr. Harris seconded for discussion. The motion failed with a split vote of one yea and 7 nay votes. The Board further discussed the AQB guidelines. Following discussion Ms. McKee moved; Mr. Ketcham seconded; motion carried with a split vote of 7 yeas and one nay vote to deny the application.
- B. Michael Brady – Certified General Appraiser by mutual recognition (NY) –The applicant was not present. The Board discussed the application. Following discussion, Mr. del Valle moved; Mr. Harris seconded; motion carried unanimously to approve the application
- C. Vanessa Camacho – Registered Trainee Appraiser – The applicant was present and addressed the Board. Following discussion, Ms. McKee moved, Mr. Harris seconded; motion carried with 2 dissenting votes to approve the application.
- D. Brad Kevin Harris – Certified General Appraiser by mutual recognition (TX) – The applicant was not present to address the Board. Following discussion Mr. Harris moved to approve the application. The motion failed for lack of a second. Following further discussion, Mr. del Valle moved, Mr. Harris seconded; motion carried with 2 dissenting votes approve the application.
- E. Shannon S. Porter – Certified Residential Appraiser – The applicant was present and addressed the Board. Following discussion, Mr. del Valle moved, Ms. Rabin seconded; motion carried with one dissenting vote to approve the application.

General Session Continued
Real Estate Appraisal Education Courses for Approval or Denial

- A. FHA Appraisal Standards – New Course (7 hours, Specialty Education) – Application No. 6379 – OREP Education Network

No representative from the organization was present in support of the application. The Board discussed the matter. Following discussion, Ms. McKee moved, Mr. del Valle seconded to deny the application. The motion carried unanimously.

Rules Discussion

Rule 61J1-4.010 Supervision and Training of Registered Trainee Appraisers

Ms. Clark presented proposed amendments to Rule 61J1-4.010. Director Watkins reminded the Board members that they had requested a separate meeting date to discuss further changes to the rule and to invite industry participation in any further discussion.

The Board briefly discussed the proposed amendments. Following discussion Mr. Bush moved; Mr. Harris seconded; motion carried without dissent to adopt the proposed amendments as presented at this meeting. The proposed amendments in this draft are:

61J1-4.010 Supervision and Training of Registered Trainee Appraisers.

(1)(a) no change.

(b) A supervisory appraiser must be a currently state-certified and certified general or certified residential appraiser ~~have been~~ in good standing with the certifying jurisdiction for at least the last three (3) years ~~Board~~ and shall not have been subject to any disciplinary action in any jurisdiction within the last three (3) years that affects the supervisory appraiser's legal eligibility to engage in appraisal practice. In addition, an appraiser who is currently under probation may not act as a supervisory appraiser.

(c) ~~Supervisory appraisers shall have been state certified for a minimum of four (4) years prior to being eligible to become a supervisory appraiser. Supervisory appraisers shall be in good standing in the same jurisdiction in which the trainee appraiser practices for a minimum of four (4) years.~~

(d) Prior to registering as a supervisor to any registered trainee appraiser, a certified appraiser shall complete a board approved supervisory course of a minimum of three (3) hours, within the preceding four (4) years. The course must comply with the course content adopted by the Appraiser Qualifications Board of the Appraisal Foundation on December 9, 2011, pursuant to Section 475.615(2), F.S. Trainee appraisers who took the course to qualify for the trainee appraiser registration will not be required to complete the course once certified in order to supervise.

(2) through (11) no change.

Rulemaking Authority 475.614, 475.615 FS. Law Implemented 475.611, 475.615, 475.6221, 475.6222 FS. History—New 2-16-04, Amended 3-1-06, 12-4-06, 8-12-07, 11-25-07, 5-3-10, 12-11-11, 6-3-13, 4-15-15, 2-2-16, _____.

Ms. Clark asked the Board if the proposed amendment to the rule will have a negative impact on small business or a regulatory impact in excess of \$200,000 within one year of implementation of the rule. Mr. Harris moved; Mr. Bush seconded; motion carried unanimously to find there will be no impact

The topic of holding a separate Rules Workshop in March was discussed. Director Watkins said a date will be determined, confirmed with Members, noticed and placed on the website to allow greater participation.

Special Agenda
Board Business

Proposed Revisions to Appraisal Subcommittee Policy Statements –

Director Watkins explained to the Board that the proposed changes to the Appraisal Subcommittee (ASC) Policy Statements have been put on hold. This includes any changes to the Appraisal Management Company rule changes, as well.

Foundation News and Updates

Director Watkins presented the following items, which were considered by the Board to be information only, with no further action being taken:

- Network of State Appraisal Organizations Real Estate Appraiser Webinar
- Appraisal Foundation Reexamines Valuation Advisories
- Appraisal Foundation Seeks Candidates for Board of Trustees
- Investigator Training schedule announced

AMC Update

Director Watkins presented the current version of the AMC bill, Senate Bill 716, which has been filed for this Legislative Session. She provided a brief description of each section of the Bill and reminded the Board this is a minimal starting point for what the Bill may become by the end of Session.

Chair Oreto thanked Ms. Watkins and stated that the Board looks forward to whatever information is forthcoming.

AARO Spring Conference

Ms. Watkins reminded the Board that the Association of Appraiser Regulatory Officials (AARO) Spring Conference will be held April 7-9, 2017 in Tampa. All registration and travel plans continue to move forward in anticipation of completion well before the meeting.

Chair Oreto sits on the Planning Committee and is the Ambassador for Florida. She reported on the efforts being made to provide the warmest of welcomes to those attending AARO and to make them feel welcome in the Sunshine State. She is looking forward to hosting the event in Tampa as it has been a long time in the making.

Director Watkins said she is excited that the event will be in Florida and so close that it provides an opportunity for so many connected to the appraisal program to be exposed to the training that takes place.

Director's Comments

Director Watkins thanked the Board for a good meeting. Executive Director Crawford reported that she looks forward to working with the Board in the future.

Chair's Comments

Chair Oreto thanked everyone for their support over the past year and looks forward to Mr. Ketcham's next year as Chair. She welcomed the newly appointed members, Ms. Cristy Conolly and Ms. Janet Rabin, saying they will bring a fresh perspective to the Board meetings.

Chair Oreto read into the record a Resolution recognizing the service of Former Member Matthew Simmons, who served from March 8, 2012 until December 16, 2016. The Resolution is part of these minutes.

Director Watkins took the opportunity to thank Mr. Simmons for his service to the Board and to the appraisal profession. She also thanked Vice-Chair Tamara McKee and Chair Oreto for the time and effort each has put forth in service to the Board, the appraisal profession, and the State of Florida.

Public Comments

There were no public comments.

Appraisal Subcommittee 2017 Compliance Review Preliminary Findings Report

Chair Oreto welcomed Appraisal Subcommittee Policy Manager, Vicki Metcalf. Ms. Metcalf introduced herself and explained the reasons behind and the process of the Compliance Review, which she recently conducted with Policy Managers Jenny Tidwell and Claire Brooks. She also explained each of the existing Policy Statements and the Rating Criteria which is used to establish the final results of the program review.

In reporting Florida's preliminary findings of the 2017 Compliance Review, Ms. Metcalf reported on each of the seven areas of review. Ms. Metcalf explained that this review did not consider AMC regulations as they are not yet under the purview of the ASC. The preliminary findings are as follows:

1. Policy Statement 1 - Statutes, Regulations, Policies and Procedures – In Substantial Compliance

The Statutes and Rules are fully compliant although there are some areas where the Statutes and Rules are higher than what is established by the Appraiser Qualifications Board (AQB).

2. Policy Statement 2 – Temporary Practice – In Substantial Compliance

No compliance issues noted. Temporary practice permits are being issued as required.

3. Policy Statement 3 – National Registry – In Substantial Compliance

The program is in compliance in all areas of the National Registry. All disciplinary actions and invoices are completed timely. Florida has implemented the ASC's Simple Object Access Protocol (SOAP) service for reporting purposes, which is a "real-time" reporting system. It allows the reporting of newly issued and renewed licenses to appear on the National Registry very quickly.

4. Policy Statement 4 – Application Processing – In Compliance

Application Review - The Staff does an excellent job of reviewing in detail each component for the various types of applications; reciprocal applications, upgrade applications, trainee applications, education course applications, renewal applications, and initial applications for each component of the education and experience criteria.

Experience Review - The Staff who complete the reviews of the work experience of applicants have received USPAP training and there is trained Staff to assist with complicated reviews.

5. Policy Statement 5 – Reciprocity – In Substantial Compliance

The program is operating in compliance with AQB Criteria.

6. Policy Statement 6 – Education – In Substantial Compliance

The education records look very good. The courses being approved are appraisal related and supporting documentation shows all information needed to demonstrate compliance. IDECC Certifications, CAP approval information with identification of expiration dates is all being recorded in great detail.

7. Policy Statement 7 – Enforcement – In Substantial Compliance

Great attention is paid to both timeliness and disposition of cases is fair and equitable. Complaints should be completed within one year. There were 370 complaints received regarding real estate appraisers and not including any AMC complaints and 402 complaints closed over the past two years. There are 84 open complaints, with 3 special documented circumstance cases. These numbers do not include the cases heard at this meeting. All files are well documented and timely.

Ms. Metcalf concluded her report by saying she will write her Preliminary Report for the Appraisal Subcommittee. They will in turn send Florida a letter with the findings and grant 60 days to respond. Any items that can be cleared within the 60 days can count toward bringing the item into compliance. The Appraisal Subcommittee makes the final decision about her review report and where Florida's program will fall on the review scale. Florida will receive a copy of the final review rating, which will be a public record.

Ms. Metcalf said she is optimistic and is hopeful that Florida's program will earn an overall rating of Excellent. She complimented the Department's Staff, Director Watkins and Division Staff for maintaining excellent files, which makes her job easier. She also thanked all for the hard work and dedication to the program.

Ms. Metcalf then addressed issues concerning the regulation of Appraisal Management Companies. She explained that the ASC will not become involved with that regulation until August 2018, which is the date set by the Final Rules as the effective date of the program.

She commented upon the establishment of the AMC National Registry Fee, noting that a moratorium has been placed upon all new regulations by the new Administration. The same is true for the proposed amendments to the Policy Statements.

Chair Oreto thanked Ms. Metcalf for her report and commended the Department and Staff for the tremendous effort put forth with Florida's program.

Adjournment

There being no other business, the Chair adjourned the meeting at approximately 2:45 p.m. The next general meeting of the Florida Real Estate Appraisal Board will held Thursday, April 6, 2017 in Orlando.

ATTEST:



Evelyn "Fran" Oreto, Chair
Florida Real Estate Appraisal Board

Lori Crawford, Executive Director
Florida Real Estate Appraisal Board

RESOLUTION
OF THE
FLORIDA REAL ESTATE APPRAISAL BOARD

IN RECOGNITION OF

MATTHEW S. SIMMONS

WHEREAS, Matthew Simmons served from March 8, 2012 to December 16, 2016, as a Certified Residential Appraiser Member of the Florida Real Estate Appraisal Board; serving as Chair from February 10, 2014 to February 9, 2015; and

WHEREAS, He diligently discharged his responsibilities as a member and has worked to ensure a smooth transition of appraisal regulation in the state so as to meet those requirements imposed under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and

WHEREAS, He has faithfully contributed as a member of the Appraisal Board since March 2012 to develop fundamental philosophy of appraisal regulation and has selflessly given of his time and knowledge which has enabled Florida to be a leader at the national level, and

Whereas, The members of the Florida Real Estate Appraisal Board, mindful of his extraordinary contributions to the State of Florida and the appraisal industry, desire to recognize his hard work,

BE IT THEREFORE RESOLVED, THAT THE MEMBERS OF THE FLORIDA REAL ESTATE APPRAISAL BOARD attest to the exemplary standards of leadership and service which Matthew Simmons brought to the real estate appraisal profession and the people of this State; and

BE IT FURTHER RESOLVED That a copy of this Resolution be made a part of the minutes and permanent records of the Florida Real Estate Appraisal Board.

Adopted this 13th day of February 2017 at Orlando, Orange County, Florida

FLORIDA REAL ESTATE APPRAISAL BOARD

Evalyn "Fran" Oreto, Chair

Tamara McKee, Vice-Chair

Benjamin Bush, Member

Armando del Valle, Member

Joshua Harris, Member

Clay Ketcham, Member

Michael Roy, Member