

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
April 7, 2015
General Meeting**

Chair Roy Pechillo called the meeting of the Florida Real Estate Appraisal Board to order at approximately 8:30 a.m., in Orlando, Florida, on this Tuesday, the 7th day of April, 2015.

The following Board members were present: Chair Roy Pechillo, Vice-Chair Clay Ketcham, Members Benjamin Bush, Armando del Valle, Joshua Harris, Tamara McKee, Evalyn "Fran" Oreto, Michael Roy, and Matthew Simmons. Senior Assistant Attorney General Michael Flury appeared as counsel for the Board. Director Watkins declared a quorum present.

Department and Division staff present at the meeting: Juana Watkins, Director; Denise Johnson, Deputy Director; Andrew Fier, Chief Attorney; Allison McDonald, Deputy Chief Attorney; by teleconference, Rebecca Hays; Alison Lamont, Assistant General Counsels; Jocelyn Pomales, OMCII; Johanne Knudson, and Beverly Ridenauer, Government Analysts. American Court Reporting, Inc. (407.896.1813) provided court reporter services.

General Session

Approval of Minutes

The minutes of the February 9, 2015 General meeting were presented. Ms. Oreto moved; seconded by Mr. Simmons to approve the minutes as amended. The motion carried without dissent.

The minutes of the March 12, 2015 Teleconference meeting were presented. Ms. Oreto moved; seconded by Mr. Simmons to approve the minutes as amended. The motion carried without dissent.

Reports

Exam Performance Report

Director Watkins presented the Examination Performance Summary Reports for January and February, 2015. She addressed questions and comments from the Board.

Licensee Count Report

Ms. Watkins presented the Licensee Count Report and addressed questions and comments from the Board. She noted that some renewals are still being completed and those small increases are reflected in this report.

Legal Case Report

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

Legal Appearance Docket

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

Item A – Case No. 2014024249, Michael Duran - Informal

Michael Duran was present, but was not represented by counsel. Mr. Simmons and Mr. Roy were recused due to participation on the probable cause panel.

Ms. Hays represented the Department and presented the case to the Board. The Board entered into discussion. Following discussion, Mr. del Valle moved; Mr. Ketcham seconded; motion carried with one abstention to impose the following:

Violation: Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the Uniform Standards of Professional Appraisal Practice (2012-2013); Violation of Florida Statute 475.624(15) by failing or refusing to exercise reasonable diligence in developing or preparing his appraisal report. **Penalty imposed:** Costs \$610.50; fine \$500.00 with six months to pay.

Item B – Case No. 2012006744, Michael Thomas Moliterno – Extension Request

Michael Thomas Moliterno was not present and was not represented by counsel. Mr. Sante and Mr. Ketcham were recused due to participation on the probable cause panel.

Ms. McDonald represented the Department and presented the request to the Board. The Board discussed the request. Following discussion, Ms. McKee moved; Mr. Bush seconded; motion carried unanimously to deny the request.

Action Taken: Request denied.

Item C – Case No. 2014033440, Johnny Frank Session, Jr. - Informal

Johnny Frank Session, Jr. was present, but was not represented by counsel. Mr. Ketcham was recused due to participation on the probable cause panel.

Ms. Lamont represented the Department and presented the case to the Board. The Board discussed the case. Following discussion, Ms. McKee moved; Mr. Bush seconded; motion carried by split vote of four to three to impose the following:

Violation: Florida Statute 475.624(4) by failing to comply with a Final Order. **Penalty Imposed:** Combined fine of \$2500 and collection costs of \$363.00 to be paid within six months, with the first payment to be made as of the date of this meeting, April 7, 2015; attend three FREAB meetings; 12 month probation with early termination language.

Item D – Case No. 2014033436, Abiel Ballesteros - Informal

Abiel Ballesteros was not present and was not represented by counsel. Mr. Ketcham was recused due to participation on the probable cause panel.

Ms. Lamont represented the Department and presented the case to the Board. The Board granted the waiver and entered into discussion. Following discussion, Ms. McKee moved; Ms. Oreto seconded; motion carried with one abstention+ to impose the following:

Violation: Florida Statute 475.624(4) by failing to comply with a Final Order. **Penalty imposed:** \$300 costs to be paid within 30 days.

General Session Continued

Summary of Applicants Agenda - New Applicants

- A. **Phillip Donald Ethington - Certified General Appraiser** –The applicant was not present. Following discussion, Mr. del Valle moved, Ms. McKee seconded; motion passed without dissent to deny the application.
- B. **Frank Towery, Jr. - Certified General Appraiser** – The applicant was not present. Following discussion, Mr. Simmons moved, Mr. Roy seconded; motion passed with a split of seven to two to approve the application.

General Session Continued

Rules Report

Board Counsel Flury provided a copy of the Rules Report for January 2015 and reported on the status of rules that are being moved through the approval process.

Rules Discussion– *Michael Flury, Board Counsel*

61J 1-4.001 Education

Mr. Flury presented the rule to the Board as amended at the teleconference meeting on March 12, 2015. He stated he had received a letter from the Joint Administrative Procedures Committee (JAPC) regarding the language being used to modify the rule to meet AQB Criteria. JAPC determined it was too vague. Mr. Flury said he was in agreement with the decision and is working to revise language now. JAPC is allowing adoption of the rule as it is, as long as the issue is addressed and the language clarified.

Mr. Flury suggested using a Statutory reference of “offering the distance education courses in accordance with board rules pursuant to Chapter 475.615(2)” to satisfy the JAPC concerns. Following discussion by the Board, Mr. Simmons moved; Ms. Oreto seconded; motion carried unanimously to approve the amended text.

Mr. Flury asked the Board to review the Checklist for the Statement of Estimated Regulatory Cost (SERC). After the discussion, Mr. Simmons moved, seconded by Mr. Bush to find the proposed changes will not have an adverse impact on small business or increase regulatory costs by \$200,000.00 within a year and are mandated by a Statutory requirement to comply with the Appraisal Qualifications Board (AQB) Criteria. The motion carried without dissent.

The amended text is as follows:

61J1-4.001 Education

(1) through (5) No change.

(6)(a) The qualifying education courses required in this rule may be satisfied by a Board approved equivalent distance education course. Distance education is education that takes place when the learner is separated from the source of instruction by time and/or distance. Such distance education course subject matter, assignment work, scholastic standards and other related requirements shall be evaluated in the same manner as the course offered by classroom instruction, having due regard however, to the different method of presentation. The institution offering distance education courses must provide proof of certification of the delivery method by an independent certified organization approved by the AQB.

(b) No change.

(c) A copy of the distance education course materials and a copy of each form of the course examination that will be administered to students shall be submitted to the Board for evaluation and approval at least 90 days prior to use. A minimum of 2 course examinations for each course shall be submitted for approval. The Board will issue a status report to the course provider within 60 days after submission of the course and examinations. Approval must be granted before the course and examinations may be offered. Thereafter, the course and examinations shall be maintained by each institution, school, or entity offering the distance education course(s) in accordance with the Board rules and AQB criteria ~~approved standard as subsequently modified by changing times, standards and laws~~. It is the responsibility of the institution, school or entity offering the Board approved distance education courses to keep the course material current and accurate, and notify the Board at least 90 days before implementing any significant changes to the course during its approval period.

(d) through (h) No change.

61J1-4.009 Post Licensing Education for Registered Trainee Appraisers

Mr. Flury presented the rule to the Board and explained that it was included on this agenda so the Board could see the final version as completed during the March 2015 meeting. No further action was taken by the Board.

61J1-4.010 Supervision and Training of Registered Trainee Appraisers

Mr. Flury presented the rule to the Board as amended at the teleconference meeting on March 12, 2015. He reminded the Board of a request by the Board to determine if there is a need to require a registered trainee appraiser to retake the Supervisor / Trainee Course (S & T) after a certain period of time.

Following lengthy discussion by the Board, Chair Pechillo asked that the rule be placed on the June agenda for further discussion. The topic was tabled until the June 2015 meeting, with the Chair asking members to come back with some verbiage to address the Board's concerns. The two main items for discussion in June will be a time element and whether both the Supervisory Appraiser and the registered trainee appraiser would be involved. The Board took comment from the public.

Real Estate Appraisal Continuing Education Course for Approval or Denial

Bullet Proof Work file – Robert E. Keller, Inc., Robert E. Keller – (3-hour Specialty Distance CE – Live Streaming), Application No. 5467

Ms. Pomales presented the course and reported to the Board that the Appraiser Qualifications Board has notified Mr. Keller that this course will require IDECC Approval as a distance education course. Mr. Keller was not present; however, he requested the course be tabled until the June 2014 meeting. The Board agreed to table the course as Mr. Keller verbally waived the 90-day processing time at the February 2015 meeting.

FREAB Complaints and Your License – Robert E. Keller, Inc., Robert E. Keller – (4-hour Specialty Distance CE – Live-streaming), Application No. 5468

Ms. Pomales presented the course and reported to the Board that the Appraiser Qualifications Board has notified Mr. Keller that this course will require IDECC Approval as a distance education course. Mr. Keller was not present; however, he requested the course be tabled until the June 2014 meeting. The Board agreed to table the course as Mr. Keller verbally waived the 90-day processing time at the February 2015 meeting.

Appraisal Review Under Uniform Appraisal Standards for Federal Land Acquisition (A380) –Debe Alvarez, American Society of Farm Manager and Rural Appraisers – (16 hour Combination CE), Application No. 5460

Ms. Pomales presented the course to the Board and explained the comments from the review consultant. Ms. Alvarez was not present. The Board entered into discussion. Following discussion Mr. Simmons moved; Mr. Ketcham seconded; the motion carried unanimously to approve the course with the condition that the provider submits a revised set of objectives for the course to the Department for review and approval.

Special Agenda

Board Business

Director Watkins presented the following items, which were considered by the Board to be informational only, taking no further action at this meeting.

- The Appraisal Foundation (TAF) – *Seeks Candidates for Board of Trustees and Appraisal Practices Board (APB) – Foundation News*
- Appraisal Practices Board (APB) – *Public Meeting Notice - Foundation News*

The following items were presented and discussed, although no further action was taken at this meeting:

Summary of Actions Related to Proposed USPAP Changes

Deputy Chief Attorney Allison McDonald presented the *Summary of Actions Related to Proposed USPAP Changes* of the Appraisal Standards Board (ASB). Ms. McDonald explained the rationale behind the proposed changes, followed by a detailed presentation of the changes to USPAP.

The Board discussed the implication of the proposed changes and the need to address changes within the rules. Director Watkins reported that she and Mr. Flury have already been in discussion about the need to move forward on those changes and hopefully, have them in place by November.

Continuing Education Course Credit Hours

Vice-Chair Ketcham addressed the topic of continuing education hours. He recognized that the required minimum number of hours allowed for continuing education courses at this time is three hours. This requirement does not provide credit for existing “lunch & learn” sessions that are used by many of today’s industries to keep the industry participants informed of ongoing changes.

Mr. Ketcham said he finds the topics of these shorter sessions to be very timely and informational in his business world and would like to have this Board consider two hour courses for continuing education credit. He noted that the AQB Criteria will allow credit for courses that are a minimum of two hours and he would like to support the possibility of the use of two hour courses in Florida.

The Board discussed the topic and asked that Rule 61J1-4.003 be placed on the June meeting agenda for discussion.

Approvable Guidelines for Minor Citation Violations

Director Watkins explained the background of the request to the Board, noting that recently an application was put through the Summary of Applicants process and brought before the Board as the result of the applicant having been issued a citation. The issue was corrected, the fine paid and the Citation closed, with no further incident occurring. However, Staff could not approve the application because this type of background issue isn't included in the current list of approvable guidelines.

The Director asked the Board if they would like to continue seeing this type of application, or would they consider granting authority to the Department for such minor violations when there is only one incident and the matter has been successfully resolved. The Board discussed the matter and granted authority to the Department to approve such minor violations when the fine has been paid and the Citation is closed regardless of when the incident occurred. Director Watkins thanked the Board.

Director's Comments

Director Watkins comments included the following:

- Background of language difference in Rules 61J1-2.004 and 61J1-2.0045 – The general consensus of the Board was to take no action and leave the two rules as they currently are written.
- Appraisal Subcommittee Advisory Committee (ASCAC) Update – The ASCAC has completed their work and the report of recommendations is being finalized. Ms. Watkins reported that she will provide the report to the Members as soon as it is available.
- Preliminary Findings of the Appraisal Subcommittee Field Review – The Director reported preliminary findings letter has been received and is consistent with the report Ms. Tidwell presented at the February meeting. The biggest issue being changes needed to Statute and Rule. The Rule will be effective April 15, 2015 and the statutory provision is currently making its way through the Legislature.

The Department has requested an extension to respond to the ASC because the Legislative Session will not end until the day the response is due. The goal is to have the ASC say our program is, if not excellent, at least fully compliant as of the date of the report.

- Legislative Update – Ms. Watkins provided an update on Senate Bill 608 and House Bill 707. She reported on proposed changes to amend language of the following Florida Statutes:
 - Section 475.631 Nonresident license and registrations
 - Section 475.629 Retention of records
 - Section 475.6295 Authority to InspectShe provided details of the proposed language of the bills and commented on the progress through each of the Committees.

Director Watkins also commented on the following:

- The Instructor Seminar meeting dates have been posted to the Division's website.
- Welcomed Joshua Harris to the Board as the newest member of the Board.

- Thanked Former User Member Chris Sante for his five years of dedicated service to The State of Florida and the Florida Real Estate Appraisal Board. Director Watkins read a Resolution of the Board into the Record. It is attached to and part of these minutes.
- Board Counsel Michael Flury will be leaving the Office of the Attorney General and this will be his last meeting. Ms. Watkins thanked him for all his hard work and dedication to the Board when it has not been easy subject matter to learn.

Mr. Flury thanked the Board for their professionalism and takes their duties so responsibly. He said he appreciates all their hard work and friendship. He complimented the Department Staff and thanked Staff for all their work in meeting the federal oversight requirements.

Chair’s Comments

Chair Pechillo’s comments included the following:

- Commented that he feels privileged to work with this Board because he has seen what other states do, and is very proud of Florida’s program.
- He is looking forward to the next year and feels honored to work with a group of professionals such as make up this Board.
- Thanked Mr. Flury for all the work he has done for this Board.
- Welcomed new Board Members Ben Bush and Joshua Harris.
- Wished the Staff attending AARO because he is aware this will be a pivotal meeting of AARO. He and the Board will be prepared to do what is needed to keep ahead of the curve.

Public Comments

The Board heard comments from the audience.

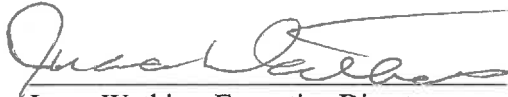
Adjournment

There being no other business, the Chair adjourned the meeting at approximately 1:05 pm. The next meeting of the Florida Real Estate Appraisal Board will held June 1, 2015 in Orlando.

ATTEST:



 Roy Pechillo, Chair
 Florida Real Estate Appraisal Board



 Juana Watkins, Executive Director
 Florida Real Estate Appraisal Board