

Ken Lawson, Secretary

Rick Scott, Governor

**Amended Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
June 6, 2016
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 Monday, the sixth day of June, 2016.

The following Board members were present: Chair Fran Oreto, Vice-Chair Tamara McKee, Members Benjamin Bush, Armando del Valle, Joshua Harris, Clay Ketcham, Michael Roy, and Matthew Simmons. 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; Denise Johnson, Deputy Director; Allison McDonald, Deputy Chief Attorney; Jocelyn Pomales, OMCII; Susan Bailey, Administrative Assistant II, Johanne Knudson, and Beverly Ridenauer, Government Analysts, and Clark Jennings, Assistant Attorney General, and Joshua Kendrick, Chief Attorney, by video conference. American Court Reporting, Inc. (407.896.1813) provided court reporter services.

General Session

Approval of Minutes

The minutes of the April 4, 2016 General Meeting were presented. Mr. Ketcham moved, seconded by Mr. Roy to approve the minutes as presented. The motion carried without dissent.

Reports

Director Watkins presented the following reports and addressed questions from the Board.

- Exam Performance Reports – March and April, 2016.
- Financial Reports – Third quarter of fiscal year 2015-2016.
- Licensee Count Report – April 2016

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 April 2016. There is only one rule pending at this time, 61J1-9.001. Changes to Rules 61J1-4.007 and Rule 61J1-4.010 became effective on February 2, 2016.

Legal Appearance Docket

The Board addressed the Legal Appearance Docket, hearing 18 docket items, with the following results:

Item A – Case No. 2015028614, Andreas Bueno – Petitioner's Motion for Informal Hearing

Andreas Bueno was not present and was not represented by counsel. Ms. McKee and Mr. Roy were recused due to participation on the probable cause panel.

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

Penalty imposed: Letter of Guidance and \$412.50 costs. **Violation:** Florida Statute 475.624(4) by failing to timely comply with a lawful order issued by the Department.

Item B – Case No. 2015043830, Peter Dalson – Respondent's Request for Informal Hearing

Peter Dalson was present and was not represented by counsel. Ms. Oreto and Mr. Harris were recused due to participation on the probable cause panel.

Ms. McDonald represented the Department and presented the case to the Board. The Board granted the informal hearing and entered into discussion. Following discussion, Mr. Ketcham moved; Mr. del Valle seconded; motion carried unanimously for the following:

Action Taken: Case Dismissed.

Item C – Case No. 2015028774, Sharon Diane Griffith – Settlement Stipulation

Sharon Diane Griffith was present and was represented by counsel, Jason M. Azzarone. Ms. McKee and Mr. del Valle were recused due to participation on the probable cause panel.

Ms. McDonald represented the Department and presented the case to the Board. The Board granted the informal hearing and entered into discussion. Following discussion, Mr. Simmons moved; Mr. Ketcham seconded; motion carried with a split vote of six to two for the following discipline:

Penalty imposed: Fine \$850.00, Costs \$651.75, attend one FREAB meeting within twelve months, and probation for six months. **Violation:** Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the USPAP (2014-2015); and violated Florida Statute 475.624(15) by failing or refusing to exercise reasonable diligence in developing or preparing a Report.

Item D through Item R – Case Nos. 2015039579, 2015039589, 2015039594, 2015039595, 2015035470, 2015036526, 2015036528, 2015036531, 2015036535, 2015039544, 2015039546, 2015039554, 2015039571, 2015039591, 2015039593 – Jeffery P. Walsh – Voluntary Surrender

Jeffery P. Walsh was not present and was not represented by counsel. Ms. McKee and Mr. del Valle were recused due to participation on the probable cause panel.

Ms. McDonald 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. Ketcham seconded; motion carried without dissent for the following:

Action Taken: Accepted the Voluntary Relinquishment of License for Permanent Revocation.

General Session Continued
Petitions for Variance or Waiver

Petition for Rule Variance of Section 61J1-6.001(5), Florida Administrative Code – VW 2016-098

Director Watkins presented the Petition for Variance or Waiver as received from Attorney Daniel Villazon on behalf of Mr. Richard Giacobe. Mr. Giacobe was present and was represented by counsel, Daniel Villazon, who addressed the Board. The Board discussed the petition in detail. Following discussion, Mr. Ketcham moved; Mr. Simmons seconded a motion to deny the petition; the motion carried without dissent.

Petition for Rule Variance of Section 61J1-4.010(2)(c), Florida Administrative Code – VW 2016-089

Director Watkins presented the Petition for Variance or Waiver as received from Mr. Todd Dailey. Mr. Dailey was present to address the Board. The Board discussed the petition with Mr. Dailey. Following discussion, Mr. Simmons moved; Mr. Bush seconded a motion to grant the petition with specificity to this circumstance; motion carried with a split vote of five to three.

Summary of Applicants Agenda - New Applicants

- A. Terrence McPherson, Certified General Appraiser by mutual recognition (MD) – The applicant was not present. Following discussion, Mr. Simmons moved, Mr. Harris seconded; motion passed without dissent to approve the application.
- B. Sandra Oaks, Certified Residential Appraiser by mutual recognition (MN) – The applicant was not present. Following discussion Ms. McKee moved, Mr. Simmons seconded; motion passed without dissent to deny the application.
- C. Ted Richard Whitmer, Certified Residential Appraiser by mutual recognition (TX) – The applicant was not present. Following discussion Mr. Simmons moved, Mr. del Valle seconded; motion passed without dissent to approve the application.
- D. Your Appraisal Partner, Appraisal Management Company (SC) and Authorized Representative Adam Taylor Atkinson – The applicant’s representative was not present. Following discussion Ms. McKee moved, Mr. Ketcham seconded; motion passed with one dissenting vote to approve the application.
- E. William Richard Boutin, Registered Trainee Appraiser - The applicant was present. Following discussion, Mr. Ketcham moved, Mr. Simmons seconded; motion passed without dissent to approve the application.

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

- A. The Implications of 3D Printing for Real Estate Professionals – Informal Hearing (2 hours Specialty) – Application No. 5873 – Region X of the Appraisal Institute

No representative from the organization was present in support the application. The Board discussed the matter. Following discussion Mr. Ketcham moved; Mr. Harris seconded to set aside the previous decision and approve the application. The motion carried with one dissenting vote.

B. The 50-Percent FEMA Rule Appraisal – Informal Hearing (2 hours specialty, classroom) – Application No. 5974 – Region X of the Appraisal Institute

No representative from the organization was present in support the application. The Board discussed the matter. Following discussion Mr. Harris moved; Mr. del Valle seconded to set aside the previous decision and approve the application. The motion carried without dissent.

C. Craft Beer Pours Into Commercial Real Estate – Informal Hearing (2 hours specialty, classroom) – Application No. 5975 – Region X of the Appraisal Institute

No representative from the organization was present in support the application. The Board discussed the matter. Following discussion Mr. Simmons moved; Mr. Ketcham seconded to set aside the previous decision and approve the application. The motion carried without dissent.

Rulemaking Workshop

Rule 61J1-9.001 Standards of Appraisal Practice

Director Watkins introduced the topic and welcomed attendees who were present to speak to the issue. Attendees who spoke to the issue are Mr. Scott DiBiasio, Manager State & Industry Affairs, Appraisal Institute; Joni Herndon, Certified Residential Appraiser from Tampa, Florida; and Mr. Francois (Frank) Gregoire, Certified Residential Appraiser from St. Petersburg, Florida.

Following the presentations Mr. Harris moved; Mr. Simmons seconded a motion to close the Rulemaking Workshop. The motion carried without dissent.

Special Agenda

Correspondence

- A. The Board considered a communication from Mr. Jeremy Correia. The Board considered Mr. Correia's comments. Counsel Clark reminded the Board that any rulemaking activity would require statutory authority, so any changes will need to begin at the Legislative level.
- B. Director Watkins presented correspondence from Steven F. Spangle and commented that it is on the agenda to properly notice this letter which addressed a topic that was on the April agenda. The letter wasn't received within sufficient time to be included on that agenda. Director Watkins stated she will respond to Mr. Spangle.
- C. Director Watkins presented a letter from Industry Stakeholders asking Congress to hold hearings about the future of the appraisal industry. The letter is considered information only and no further action was taken by the Board at this meeting.

Board Business

AMC Regulation

Director Watkins introduced the topic by reporting on all the discussion that has already taken place. Recently, the Appraisal Subcommittee released a document titled Key Provisions on Minimum Requirements for State Registration and Supervision of AMCs, which is a checklist of items that identify minimum requirements as set forth in the AMC Rule for States may use as a model for legislation. The Director asked the Board to use this information as a guide about what needs to be considered in proposed legislation.

Ms. Watkins clarified that the Agency will have a legislative proposal submitted to the Office of Legislative Affairs to indicate a joint proposal by the Board and the Agency to amend the existing AMC legislation to comply with the defined minimum requirements.

Chair Oreto reported that this was an important topic of discussion at the Association of Appraiser Regulatory Officials Spring Conference with support from many AMCs from across the country.

The Board discussed the history of the existing regulations and future regulatory options, including any potential impact for opting out of regulation. Following discussion, Member Harris moved; Member Simmons seconded a motion to continue the regulation of AMCs and offer recommendations for the next window of change. The motion was withdrawn prior to a vote.

Member Simmons moved; Member McKee seconded a motion to find the Board's position is for Florida to not have a regulatory program for AMCs. The motion failed with a split vote of three yea and five nay votes.

Member Harris moved; Member Roy seconded to "opt-in" and continue regulating AMCs. Upon vote, the motion carried with a split vote of five yea and three nay votes.

The Board discussed possible amendments to the existing statute and rules. The following items were identified for further discussion at the August meeting:

- Identify and define appraisal firms, entities that use contractors and hybrid companies
- Consider the Federal definition and define appraisal services
- Consider a study of customary and reasonable fees as that is part of compliance with the Truth in Lending Act (TILA)

Due to severe weather conditions, the Board tabled the following items until the August 1, 2016 meeting:

- *Foundation News* and updates from The Appraisal Foundation (TAF)
- First Exposure Draft of Proposed Changes to Criteria by Appraiser Qualifications Board (AQB)
- *Working RE Magazine* article regarding proposed changes to AQB Criteria
- Appraisal Subcommittee Notice of Publication of Proposed Rulemaking for AMC Registry Fees
- Anti-Trust Presentation Questions
- FREAB Declaratory Statement DS-92-01
- House Bill 499 amending Value Adjustment Board (VAB) process

Director's Comments

Director Watkins commented on the following:

- A. Appraisal Subcommittee 2017 Compliance Review will take place during the week of February 6, 2017 through February 13, 2017.
- B. Association of Appraiser Regulatory Officials (AARO) Meeting – Director Watkins reported that the actual presentation materials have been posted to the AARO website and are available
- C. Requested August agenda item for the Fee Rule – There has been a very slight increase in the cost of the exam, and it is the hope of the Agency that we can reduce the application fee to offset that increase, if the Board has no objection.
- D. Instructor's Seminar dates have been set and registration is open on the Division's website. They will take place in Miami, Tallahassee and Orlando. The agenda is set and includes a presentation by Dr. Joshua Harris.

Chair's Comments

The Chair deferred making comment to allow for final public comment.

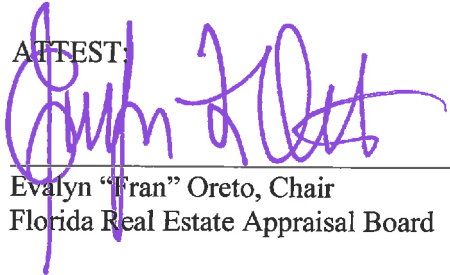
Public Comments

The Board heard final comments from the audience.


Adjournment

There being no other business, the Chair adjourned the meeting at approximately 2:25 pm. The next general meeting of the Florida Real Estate Appraisal Board will held August 1, 2016 in Orlando.

ATTEST:



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



Juana Watkins, Executive Director
Florida Real Estate Appraisal Board