

Jonathan Zachem, Secretary

Rick Scott, Governor

**Amended Minutes of  
THE FLORIDA REAL ESTATE APPRAISAL BOARD  
August 7, 2017  
General Meeting**

Chair Clay Ketcham 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 7th day of August 2017.

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

Department and Division staff present at the meeting: Juana Watkins, Director; Denise Johnson, Deputy Director; Lori Crawford, Executive Director; Joshua Kendrick, Chief Attorney; Sara Kimmig, Chief Bureau of Enforcement; Neal Lawson, Assistant General Counsel appeared by video conference; Susan Bailey, Administrative Assistant, III; 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 June 5, 2017 General Meeting were presented. Ms. Oreto moved, seconded by Mr. Roy to approve the minutes as presented. The motion carried without dissent.

**Reports**

Executive Director Crawford presented the Exam Summary and License Count Reports and noted that the Financial Reports would be presented later. Ms. Crawford responded to questions from the Board.

**Legal Case Report**

Chief Attorney Joshua Kendrick presented the Legal Case Activity report and responded to questions from the Board.

**Legal Appearance Docket**

The Board addressed the Legal Appearance Docket, hearing 2 docket items with the following results:

**Tab A – Case No. 2016043773, SETTLEMENTONE VALUATION CORPORATION - Respondent's Request for Informal**

Respondent was not present, but was represented by counsel, Alan Faigin. Mr. Ketcham was recused due to participation on the probable cause panel.

Mr. Kendrick 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; Ms. McKee seconded; motion carried with two dissenting votes for the following:

**Penalty imposed:** Dismissed.

#### **Tab B – Case No. 2016009571, WOJCIECH LEJA– Settlement Stipulation**

Wojciech Leja 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. Following discussion, Member Rabin moved; Member Harris seconded; motion carried by split vote to reject the proposed Stipulation and offered the following which was accepted on the record at the meeting:

**Penalty imposed:** \$2,500.00 fine; investigative costs of \$693.00; 30 hours of appraisal education approved by the Board which has delegated authority for approval to the Chair, to be completed within 12 months; attend 1 complete FREAB meeting; 12 months' probation. **Violation:** Florida Statutes 475.629; Florida Statutes 475.624(15), by failing or refusing to exercise reasonable diligence in developing or preparing the Appraisal Report; and Florida Statutes 475.624(4) by violating Rule 61J1-9.001, Florida Administrative Code, through violations of USPAP Standard Rules.

#### **General Session Continued**

#### **Rules Report and Rules Discussion** – Rachel Clark, Board Counsel

#### **Rules Report**

Board Counsel Clark presented the Rules Report for August 2017, providing updates on the rules previously reviewed and revised by the Board. She responded to questions from the Members regarding text changes, effective dates, and the rulemaking process. During the discussion, the Board asked that Rule 61J1- 2.005 and Rule 61J1-4.010 be brought back for discussion at a later date.

#### **Rules Discussion**

#### **Rule 61J1-2.001 Fees**

Director Watkins presented the proposed amendments to Rule 61J1-2.001. The revisions will bring the rule current with the business process currently being used by the department for duplicate licenses and the examination review processes. The Board discussed the proposed language amendment. Following discussion, Mr. Bush moved; Mr. Harris seconded; motion carried without dissent to open the rule for rule development.

Following discussion of the proposed language, Mr. Bush moved; Ms. Oreto seconded; motion carried without dissent to approve the language as presented.

Ms. Clark asked the Board if the proposed amendment to the rule will not have a negative impact on small business or a regulatory impact in excess of \$200,000 within one year of implementation of the rule. Ms. McKee moved; Ms. Oreto seconded; motion carried unanimously to find there will be no fiscal impact.

Ms. Clark asked the Board to consider if any violation of the changes to the rule could be considered to be minor violations. Following discussion, Mr. Bush moved; Mr. Roy seconded; motion carried unanimously to find that if there is a violation of the rule based upon the changes to the rule, the violations would not be identified as minor violations.

### **Rule 61J1-8.003 Notice of Noncompliance**

Ms. Clark explained that this rule is before the Board for consideration of adding other violations of Statute that may be resolved by means of a notice of noncompliance. Director Watkins reported that all of the professions within the agency are being encouraged to assess the notice of noncompliance rule. She asked the Board to consider other violations that may be added to the existing list provided it is a minor violation, poses no harm to the public, and can be resolved easily.

Ms. Watkins asked the Board to keep in mind that this review is particularly relevant to appraisers because even one minor disciplinary issue triggers multiple actions against that license in other jurisdictions. Citations become final orders and are therefore reported to the National Registry. The Board discussed the topic, but took no further action at this meeting. It will be addressed at a later date.

### **Rule 61J1-4.008 Continuing Education for School Instructors**

Deputy Director Denise Johnson presented Rule 61J1-4.008. The proposed revision will update the requirements for real estate education instructors and enable the use of online courses for appraisal instructors. She asked the Board to consider opening the rule for rulemaking. The Board discussed the proposal at length. Following discussion, Mr. Harris moved; Ms. Oreto seconded; motion carried unanimously to open the rule for rulemaking.

### **Rule 61J1-9.001 Standards of Appraisal Practice**

Ms. Clark asked the Board to open the rule for rulemaking for the purpose of updating the text to identify the 2018-2019 Edition of Uniform Standards of Professional Appraisal Practice (USPAP), which will become effective January 1, 2018. Ms. Oreto moved; Ms. Rabin seconded; motion carried unanimously to open the rule for rulemaking.

Ms. Clark asked the Board to consider approving the proposed language at this meeting so the rule will be completed at one time. Mr. Bush moved; Ms. Conolly seconded; motion carried unanimously to approve the language as presented.

Mr. Bush moved; Ms. Oreto seconded; motion carried unanimously to find that the proposed amendment to the rule will not 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. Bush moved; Ms. Oreto seconded; motion carried unanimously to find that a violation of the rule, or any part of this rule, should not be designated a minor violation.

### **Special Agenda** **Board Business**

#### **FREAB Pending Legislation**

Vice-Chair Roy expressed concern over the timing of information being provided to the Board during the Legislative Session. He is of the opinion that Board Members and the appraisal industry need to be better informed of this process and the impact to this industry. He asked that the Division create some method to alert interested parties that there is a bill in the legislature and provide a way to keep the public informed of any advancement of any committee action.

Board Counsel Clark reminded the Members that as individuals, each has the ability to contact their Legislators to express their concerns as individuals, but not as Board members.

Director Watkins explained that access to the Legislative Bills and Committee action is available to each Member and the general public via the Internet. It does require an individual to create an account to monitor those Bills that interest you as an individual. She said she will research the possibility of creating a link to the Online Sunshine website for interested parties.

### **Federal Trade Commission Letter to the State of North Carolina**

Director Watkins commented that this item was provided to the Board as information only. The Federal Trade Commission (FTC) has taken an interest in the real estate appraisal industry. In this instance, the FTC has expressed an opinion relating to the recent legislation proposed by the State of North Carolina regarding reasonable and customary fees paid by AMCs to real estate appraisers. This letter makes it clear that the FTC is very interested in the legislative activity of the States.

Member del Valle expressed concern about the anti-trust aspect of working with the Board and asked if there will be some legislation proposed to minimize exposure to the antitrust laws since Florida does "actively supervise" its board members. Director Watkins said she is aware that this is a topic of considerable discussion at this time, but it is a wait and see situation to see if any legislation will be introduced at the next Legislative Session.

### **Federal Trade Commission Roundtable Meeting Notice**

Director Watkins reported that the Federal Trade Commission (FTC) Economic Liberty Task Force held a roundtable discussion on the portability of occupational licenses, or reciprocity. The discussion was not specific to any particular industry at this time, but was more of a fact gathering process to determine if there is a way to minimize the licensing process between states. Ms. Watkins stated that appraisers already have reciprocity, but if the appraisal industry would like to know what is in their future, they may wish to look to the FTC as it seems they are very interested in this profession.

### **The Appraisal Foundation Updates, Bulletins, Notices**

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

- Appraiser Qualifications Board (AQB) – Proposed Changes to Qualification Criteria – The AQB has created a focus group to help determine what, if any changes should be made to the Criteria.
- The Appraisal Foundation – Summary of the Spring Meeting of the Board of Trustees
- The Appraisal Foundation – Board of Trustees Appointments Announced
- The Appraisal Foundation – Seeking Candidates for the Appraiser Qualifications Board and Appraisal Standards Board
- The Appraisal Foundation – Second Exposure Draft of Valuation of Green and High-Performance Property: Commercial, Multifamily, and Institutional Properties
- Appraiser Qualifications Board – Notice of Public Meeting September 8, 2017 in Minneapolis, MN

### **Director's Comments**

Director Watkins commented on the following:

- House Bill 927 Implementation Update – To the extent that is possible, the implementation of the AMC program and the AMC National Registry is moving forward. We have the Final Rules and HB 927, but the details of the AMC National Registry have not yet been provided.

- The Department will discuss moving the AMC licensees to an annual renewal cycle. With that in mind, there may be a need to open several rules to accommodate the changes.
- The Department is moving forward with the elimination of the post licensing education for registered trainee appraisers, which was also in this Bill.
- There is one last Instructor's Seminar, which will be held in at Seminole State College in Sanford, Florida. The seminars always contain coverage of any completed or pending changes to statutes and rules, including the changes to Rule 61J1-4.010, which will be effective by the date of the seminar.
- A special thank you to Dr. Harris for his outstanding contribution to the seminars.
- AARO Fall Conference – three members requested consideration for attendance.
- Mr. Jonathan Zachem has been named as the new Secretary for the Department of Business and Professional Regulation. Mr. Zachem was previously the Deputy Secretary of the Business side of the Department.
- Mr. Paul Waters has been named as Deputy Secretary for the Department of Business and Professional Regulation. He was previously Deputy General Counsel for years and most recently, was the Executive Director of the Florida Boxing Commission.

The Director reported that this will be the last meeting for Board Member Joshua Harris. Dr. Harris has accepted a position with New York University Schack Institute of Real Estate as their Academic Director. Ms. Watkins thanked Dr. Harris for all of his valuable contributions to the real estate industry, and particularly, this Board and the appraisal industry. His contributions to the instructor's seminars were extremely well received and the comments were always positive about his presentations.

Director Watkins read into the record a Resolution of the Florida Real Estate Appraisal Board recognizing the service of Member Harris, who served from March 26, 2015 to August 7, 2017. The Resolution is part of these minutes.

### **Chair's Comments**

Chair Ketcham commented on the following:

- New Board Member Orientation – Would like to have it soon so everyone can benefit.
- The Board needs to discuss the changes that passed in HB 927. He addressed several issues that need to be discussed and received comments from other Members. No action was taken at this meeting.
- Appraisal foundation Corrective Education Courses – the Chair said he had the opportunity to have a preview of the courses. The level of difficulty if the material and the timing mechanism are significant. An appraiser will surely benefit from these courses.
- Appraisal Foundation sample of a restricted report is available to all to view. The Chair suggested that each person review it so they are familiar with the content.
- Asked Director Watkins for an update of the new business process of having a certified appraiser review the reports claimed as experience. She reported that although initiating the process was slightly challenging, it is now moving along well.

### **Public Comments**

The Board heard comments from the audience.

**Next Meeting Date**

Monday, October 2, 2017 at 8:30 a.m. – Orlando

**Adjournment**

There being no other business, the Chair adjourned the meeting at approximately 1:05 p.m. The next general meeting of the Florida Real Estate Appraisal Board will be held Monday October 2, 2017 in Orlando.

ATTEST:



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Clay Ketcham, Chair  
Florida Real Estate Appraisal Board



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Lori Crawford, Executive Director  
Florida Real Estate Appraisal Board