

Ken Lawson, Secretary

Rick Scott, Governor

Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
October 3, 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 third day of October, 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. Deputy Director Johnson declared a quorum present.

Department and Division staff present at the meeting: Juana Watkins, Director; Denise Johnson, Deputy Director; Allison McDonald, Deputy Chief Attorney, Joshua Kendrick, Chief Attorney, Joe Helton, Assistant General Counsel; Brande Miller, Alicia Bhambhani and Josh Whealdon, Assistant General Counsels appeared by video conference; Jocelyn Pomales, OMCII; Susan Bailey, Administrative Assistant II, 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 August 1, 2016 General Meeting were presented. Mr. Simmons moved, seconded by Mr. del Valle to approve the minutes as amended. The motion carried without dissent.

Reports

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

- Exam Performance Reports – July and August, 2016
- Fiscal Year-End Financial Reports
- Licensee Count Report – August, 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 September 2016.

del Valle moved; Mr. Simmons seconded a motion to deny the petition because the petitioner failed to demonstrate a hardship. The motion carried without dissent.

Penalty imposed: Administrative fine of \$1000.00; investigative costs of \$960.30. **Violation(s):** Florida Statute 475.6245(1)(f) by failure to disclose discipline against licenses by Tennessee, North Carolina and Louisiana.

Tab F – Case No. 2015020055, Kiley A. Connor – Stipulation

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

Mr. Whealdon represented the Department and presented the case to the Board. The Board entered into discussion. Following discussion, Mr. del Valle moved; Mr. Roy seconded to reject the proposed settlement stipulation. The motion carried with one dissenting vote.

The Board further discussed the case. Mr. Roy moved; Mr. Harris seconded a motion for the following: Counter Stipulation:

Action Taken: Counter Stipulation offered: Administrative fine of \$1,500.00, investigative costs of \$624.60; complete one (1) four-hour corrective education course titled “Report Certifications: What am I Signing and Why”; attend one (1) complete general FREAB meeting; probation period of 6 months; counter-offer to be accepted or rejected within 30 days. **Violation(s):** Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the USPAP (2014-2015).

Tabs H thru N – Case Nos. 2014039948, 2014.53467, 2014153471, 2015006670, 2014053462, 2014053464 and 2014053473 - David R. Lerman – Stipulation

David R. Lerman was present and was represented by counsel, Daniel Villazon. 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 entered into discussion. After discussion, Mr. Simmons moved; Mr. Ketcham seconded; motion carried with one opposing vote to impose the following:

Penalty imposed: Administrative fine of \$3,500.00; investigative costs of \$5,071.44 ; satisfactorily complete 60 hours of appraisal education in the topics of report writing and residential market analysis; attend four (4) complete general FREAB meetings; probation period of 24 months. **Violation(s):** Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the USPAP (2014-2015); Florida Statute 475.624(15) by failing or refusing to exercise reasonable diligence in developing or preparing a Report.

Tab P – Case No. 2014029865, Valentina Ohanjannians – Stipulation

Valentina Ohanjannians was present and was represented by counsel, Rooben Ohanmamooreni. Ms. Oreto and Mr. Del Valle were recused due to participation on the probable cause panel.

Mr. Helton represented the Department and presented the case to the Board. The Board entered into discussion. Following discussion, Mr. Harris moved; Mr. Bush seconded; motion carried with one dissenting vote to impose the following:

Penalty imposed: Administrative fine of \$2,000.00; investigative costs of \$2,630.10; complete 30 hours of appraiser education. **Violation(s):** Florida Statute 475.624(15) by failing or refusing to exercise reasonable

diligence in developing or preparing a Report; violation of Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the USPAP (2014-2015); Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the Scope of Work Rule.

Tab C – Case No. 2016000903, Tricia A. Eriksson – Respondent’s Request for Informal Hearing

Tricia A. Eriksson was not present, but was represented by Qualified Representative, Robert Keller. Mr. Del Valle was 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 informal hearing and entered into discussion. Following discussion, Mr. Simmons moved; Mr. Ketcham seconded; motion carried with two dissenting votes to impose the following:

Penalty imposed: Administrative fine of \$1,500.00; investigative costs of \$1625.25; 25 hours of education; attend two FREAB meetings; probation period of six months, all to be completed within twelve months. **Violation(s):** Florida Statutes 475.624(4) and 455.227(1)(m) by making deceptive, untrue, or fraudulent representation in or related to the practice of real estate appraisal.

Tab G – Case No. 2015027138, William Harold Dushane – Stipulation

William Harold Dushane was present and was represented by counsel, Jeanne Crandall. Ms. Oreto and Mr. Del Valle were recused due to participation on the probable cause panel.

Mr. Helton represented the Department and presented the case to the Board. The Board entered into discussion. Following discussion, Mr. Ketcham moved; Mr. Harris seconded; motion carried unanimously to impose the following:

Penalty imposed: Administrative fine of \$1,000.00; investigative cost of \$1,000.00; attend one (1) complete general FREAB meeting within 12 months; 30 hours of continuing education to be completed within one year. **Violation(s):** Florida Statute 475.624(15) by failing or refusing to exercise reasonable diligence in developing or preparing a Report; violation of Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the USPAP (2014-2015).

Tab D – Case No. 2015030640, Salvador Oscar Perez – Respondent’s Request for Informal Hearing

Salvador Oscar Perez was not present and was not represented by counsel. Ms. McKee was recused due to participation on the probable cause panel.

Ms. Bhambhani represented the Department and presented the cases to the Board. The Board granted the informal hearing and entered into discussion. Following discussion, Mr. del Valle motioned; Mr. Roy seconded a motion for the following:

Penalty imposed: Revocation. **Violation(s):** Florida Statute 475.624(4) by failing to comply with a lawful order of the Board.

Tab E – Case No. 2015005827, Niles Bernard Smyth – Respondent’s Request for Extension of Time

Niles Bernard Smyth was not present and was not represented by counsel. All members participated in the discussion.

Ms. McDonald represented the Department and presented the case to the Board. The Board discussed the case. Following discussion, Mr. Bush moved; Ms. McKee seconded and motion carried unanimously to grant a one-month extension.

Action Taken: Extension granted.

Tab Q – Case No. 2015038064, Derrick G. Tuell – Stipulation

Derrick G. Tuell was not present and was not represented by counsel. Mr. Del Valle was recused due to participation on the probable cause panel.

Mr. Whealdon represented the Department and presented the case to the Board. The Board entered into discussion. Following discussion, Mr. Roy moved; Mr. Simmons seconded for discussion, a motion to reject the proposed stipulation. Upon vote, the motion failed with a split vote of three aye and four nay votes.

The Board further discussed the case. Mr. Simmons moved; Mr. Bush seconded a motion to accept the proposed stipulation. The motion carried with three dissenting votes.

Penalty imposed: Administrative fine of \$1,500.00; investigative costs of \$1,980.00; attend two (2) complete general FREAB meeting within 12 months; 25 hours of continuing education within 12 months; probation period of 6 months. **Violation(s):** Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the USPAP (2014-2015); Violation of Florida Statute 475.624(4) and 455.227(1)(m).

Tab S – Case No. 2015028577, Anthony Leon – Motion for Waiver and Entry of a Final Order

Anthony Leon was not present and was not represented by counsel. Mr. Del Valle was recused due to participation on the probable cause panel.

Ms. Bhambhani 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. Roy seconded; motion carried unanimously to impose the following:

Penalty imposed: Permanent Revocation. **Violation:** Florida Statute 475.624(4) by failing to comply with a lawful order of the Board.

General Session Continued

Petitions for Variance or Waiver

Petition for Rule Variance of Section 61J1-6.001(1)(c), Florida Administrative Code – VW 2016-217

Director Watkins presented the Petition for Variance or Waiver as received from Mr. Gregory S. Stone. Mr. Stone was present to address the Board. The Board discussed the petition. Following discussion, Ms. McKee moved to grant the petition because the petitioner demonstrated a hardship. Mr. Harris seconded and the motion carried without dissent.

Summary of Applicants Agenda - New Applicants

- A. Matthew R. Brye – Certified Residential Appraiser – The applicant was present. Following discussion, the applicant verbally waived the 90-day processing time for the application until such time as he could amend the work experience log as directed by the Board.

- B. Wayne Famular, Jr. - Certified Residential Appraiser by mutual recognition (NY) – The applicant was not present. Following discussion, Mr. Simmons moved, Mr. Harris seconded; motion to approve the application. Motion failed with a split vote of three aye votes to five nay votes. Following further discussion, Ms. McKee moved; Mr. Roy seconded a motion to deny the application. The motion carried with a split vote of five yeas and three nays.
- C. Curt R. Forman - Registered Trainee Appraiser – The applicant was not present. Following discussion, Ms. McKee moved; Mr. Harris seconded; motion carried unanimously to approve the application
- D. Robert C. Goetting - Certified Residential Appraiser by mutual recognition (GA) – The applicant was present. Following discussion Mr. Harris moved, Mr. Roy seconded; motion carried with a split vote of four yeas to three nays to approve the application.
- E. Daniel Hallisy, Certified Residential Appraiser by mutual recognition (OH) – The applicant was present. Following discussion, Ms. McKee moved, Mr. Bush seconded; motion carried unanimously to approve the application.
- F. Chris Lantz, Certified General Appraiser by mutual recognition (OK) – The applicant was not present. Following discussion, Mr. Bush moved, Mr. Roy seconded; motion carried unanimously to approve the application.
- G. David M. Maggard, Certified General Appraiser – The applicant was present. Following discussion, Mr. Harris moved, Mr. del Valle seconded; motion carried unanimously to approve the application.
- H. J. Bruce Ricciuti, Certified General Appraiser by mutual recognition (MA) – The applicant was not present. Following discussion, Mr. Bush moved, Mr. Roy seconded; motion carried unanimously to deny the application.

General Session Continued

Real Estate Appraisal Education Courses for Approval or Denial

- A. Principles of Real Estate Appraisal, Course 400 – New Course (14 hours, Specialty) – Application No. 6265 – International Right of Way Association

No representative from the organization was present in support the application. The Board discussed the matter. Following discussion Mr. Roy moved; Mr. Simmons seconded to deny the course. The motion failed with a split vote of two yeas and six nays. The Board further discussed the topic. Following discussion, Mr. Harris moved; Mr. Bush seconded a motion to approve the course. The motion carried with a split vote of yeas and two nays.

Rulemaking Workshop

Rule 61J1-2.001 Fees

Board Counsel Clark introduced the rule. Director Watkins presented an update on the fee changes to the state contract for the National Uniform Licensing and Certification Examinations provider. The changes impact the certified residential and certified general exam takers and the Residential and General Instructor exam takers.

The Board reviewed and discussed the changes and the fee, which is part of the initial application fee. The change will reduce the amount of the initial application fee for certified appraisers and appraiser instructors. Mr. Harris moved; Ms. McKee seconded to adopt the proposed changes. The motion carried unanimously. Ms. Clark queried the Board to consider the if the proposed changes will have an adverse impact on small business or increase regulatory costs by \$200,000.00 within a year Statement of Estimated Regulatory Cost (SERC). 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. The motion carried without dissent.

The proposed amended text of the rule is:

61J1-2.001 Fees.

(1) The application fee shall be as follows:

No change.

Certified Residential Appraiser	\$ 91.00 100.00
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Certified General Appraiser	\$ 91.00 100.00
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No change.

(2) No change.

(3) The fee for appraisal course instructors shall be:

Application for General Appraiser Instructors	\$44.00 50.00
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Application for Residential Appraiser Instructors	\$44.75
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No change.

(4) through (14) No change

Rulemaking Authority 475.614 FS. Law Implemented 215.34, 455.217, 455.2281, 455.271(6)(b), 475.6147, 475.615, 475.618 FS. History—New 10-15-91, Amended 6-7-92, 5-6-93, Formerly 21VV-2.001, Amended 9-22-93, 7-5-94, 5-22-95, 8-20-96, 11-11-97, 10-1-98, 10-29-98, 1-7-99, 11-15-99, 11-10-03, 2-21-06, 9-21-06, 12-4-06, 3-13-07, 12-4-07, 7-17-11, 7-16-12, 5-8-13,_____.

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

Ms. Clark presented a proposed amendment to Rule 61J1-4.010 in response to recent changes by the Appraiser Qualifications Board. Following discussion, Mr. Harris moved to approve the proposed amended language; Mr. Simmons seconded for discussion. After further discussion and upon vote, the motion failed for lack of a second. The Board tabled the discussion until the December 5, 2016 meeting.

Annual Rules Review and Regulatory Plan

Ms. Clark reported on the Annual Regulatory Plan, noting it is a yearly requirement for the Board to review the rules. The plan contains rules that may be considered by the Board during the next year and was provided as information only.

Special Agenda

Correspondence

The correspondence items were tabled for discussion at the December 5, 2016 meeting.

Board Business

The Board reviewed and adopted the proposed 2017 yearly calendar making allowances for the AARO conference to be held in April.

The Chair tabled the remainder of the agenda until the December 5, 2016 meeting.

Chair's Comments

The Chair addressed the following items:

- What is the status of the AMC regulation as it is essential to the Florida real estate industry
- Asked Director Watkins for written proposals for moving forward with the Customary and Reasonable Fees impact study
- Is aware discussions have taken place, but there has been no update made available
- Needs to be on December 5, 2016 meeting agenda, even if it requires a two-day meeting
- The time to complete this process is limited, it needs to move forward

Director's Comments

Director Watkins reported that she will convey the Chair's concerns about the AMC regulations.

Public Comments

The Board heard final comments from Mr. Gregoire regarding the supervision of registered trainee appraisers and possible considerations for the language amendments to that rule.


Adjournment

There being no other business, the Chair adjourned the meeting at approximately 5:10 p.m. The next general meeting of the Florida Real Estate Appraisal Board will held December 5, 2016 in Orlando.

ATTEST:



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



Juana Watkins, Executive Director
Florida Real Estate Appraisal Board