

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
December 7, 2015
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 seventh day of December, 2015.

The following Board members were present: Chair Clay Ketcham, Members Benjamin Bush, Armando del Valle, Joshua Harris, Tamara McKee, Evalyn "Fran" Oreto, and Matthew Simmons. Member 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; Denise Johnson, Deputy Director; Joshua Kendrick, Chief Attorney; Allison McDonald, Deputy Chief Attorney, Al Cheneler, Assistant General Counsel, and by teleconference Joseph Whealdon, Assistant General Counsel; Jocelyn Pomaes, 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 October 5, 2015 General meeting and the November Teleconference were presented. Ms. Oreto moved, seconded by Mr. Bush to approve the minutes as presented. The motion carried without dissent.

Reports

Exam Performance Report

Director Watkins presented the Examination Performance Summary Reports for September, October and November, 2015. She addressed questions and comments from the Board.

Member McKee addressed the topic of applicant information that is gathered and distributed by the contracted exam provider. Ms. Watkins said she will follow up on the request and report back at the February 2016 meeting.

Licensee Count Report

Ms. Watkins presented the Licensee Count Report and addressed questions and comments from the Board.

Quarterly Financial Reports

Director Watkins presented the Financial Reports for the first quarter of fiscal year 2015-2016. She addressed questions and comments from the Board.

Rules Report

Board Counsel Rachel Clark provided the Rules Report for December 2015 and reported on the status of rules that are being moved through the approval process.

Legal Case Report

Mr. Kendrick presented the Year Old Case report to the Board and addressed questions and comments from the Board.

Legal Appearance Docket

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

Item D – Case No. 2014-031589, Robert Lee Offenhauser – Motion of Waiver and Entry of Final Order

Robert Lee Offenhauser was present and was represented by counsel, Nancy Campiglia. Ms. Oreto was recused due to participation on the probable cause panel.

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

Penalty imposed: Revocation. **Violation:** Florida Statute 475.624(5) by being adjudicated guilty of three counts of Indecent Exposure – Exposure of Sexual Organs, in violation for Florida Statute Section 800.03, a first degree misdemeanor.

Item E – Case No. 2015-005827, Niles Bernard Smyth – Respondent’s Request for Informal Hearing

Niles Bernard Smyth was present, but was not represented by counsel. Ms. Oreto was recused due to participation on the probable cause panel.

Mr. Whealdon 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. del Valle seconded; motion carried unanimously to impose the following:

Penalty imposed: \$932.25 costs, 7 hours of education, 6-month probation with early termination, attend one FREAB meeting. **Violations:** Florida Statute 475.624(4) and Florida Administrative Rule 61J1-9.001 by failing to comply with 2014-2015 USPAP; Violation of Florida Statute 475.624(4) and Florida Administrative Rule 61J1-9.001 by failing to comply with 2014-2015 USPAP; Violation of Florida Statutes 475.623 and 475.624(4).

Item C – Case No. 2014-052188, Emilio Alberto Hernandez – Petitioner’s Motion for Informal Hearing

Emilio Alberto Hernandez was present, but was not represented by counsel. Ms. Oreto was 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. Harris seconded; motion carried unanimously to dismiss the case.

Action Taken: Case dismissed.

Item A – Case No. 2014-022546, Javier Ferrer – Respondent’s Motion for Early Termination of Probation

Javier Ferrer was not present, and was not represented by counsel. Mr. Ketcham and Ms. McKee 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. Following discussion, Ms. Oreto moved; Mr. del Valle seconded; motion carried unanimously to grant the motion.

Action Taken: Motion granted.

Item B – Case No. 2014-049493, Harry D. Gray – Petitioner’s Motion for Informal Hearing

Harry D. Gray was not present, and was not represented by counsel. 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. Harris seconded; motion carried by split vote to impose the following:

Penalty imposed: \$1608.75 costs, \$3500 fine, 30 hours of education, attend 2 FREAB meetings, 6-month probation. **Violations:** Florida Statute 475.624(4) and Florida Administrative Code Rule 61J1-9.001 by failing to comply with the USPAP (2014); Violation of Florida Statute 475.624(15) by failing or refusing to exercise reasonable diligence in developing and/or preparing the Report.

Petition for Variance or Waiver

Director Watkins presented a Petition for Variance or Waiver received from William Terry Hanes. Mr. Hanes was not present, but was represented by counsel, Steven Johnson.

The Board discussed the petition. Following discussion, Mr. Simmons moved; Ms. Oreto seconded; motion carried unanimously to deny the petition.

Summary of Applicants Agenda – Informal Hearing

Jeannie Lin Johnson, Certified Residential Appraiser by mutual recognition (MO)

Ms. Johnson was present and was represented by counsel, Steven Johnson, also present. Following discussion, Mr. Harris moved, Mr. Simmons seconded; motion passed unanimously to set aside the Notice of Intent to Deny and approve the application.

Summary of Applicants Agenda - New Applicants

Ellen Lisa Dyer, Certified Residential Appraiser by mutual recognition (MO) – The applicant was present. Following discussion, Ms. Oreto moved, Mr. Harris seconded; motion passed by split vote to approve the application.

Mark J. Borato, Certified Residential Appraiser by mutual recognition (NE) – The applicant was not present. Following discussion, Mr. del Valle moved, Mr. Simmons seconded; motion passed unanimously to approve the application.

Ruben Jesus Paneque, Registered Trainee Appraiser – The applicant was present. Following discussion, Mr. Harris moved, Mr. Bush seconded; motion passed with a split vote to approve the application.

Michael Rudd, Certified General Appraiser by mutual recognition (ID) – The applicant was present. Following discussion, Ms. McKee moved, Mr. Simmons seconded; motion passed unanimously to approve the application.

General Session Continued

Real Estate Appraisal Education Courses 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

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

Mr. Keller was not present but did submit a request to withdraw the two courses at this time. Following discussion, Mr. Bush moved; Ms. Oreto seconded; motion carried unanimously to grant the request to withdraw the courses.

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.

- Appraisal Standards Board (ASB) – November Q & A
- Appraisal Standards Board (ASB) – 2016-17 USPAP available
- The Appraisal Foundation (TAF) – Standards & Guidance to Appraisal Software Programs – Foundation News

Communication from Scott B. Caulfield

Director Watkins presented the correspondence from Mr. Caulfield to the Board. The Board discussed the content of the letter. Board Counsel Clark advised the Board that this letter could not be considered for a declaratory statement because the issue addressed in the letter has already happened while a declaratory statement provides guidance for future action. The Board asked the Department to respond to Mr. Caulfield, but took no other action.

AMC Regulation Opt-In /Opt-Out

Ms. Oreto provided the background for the issue and reported on the information she gathered while attending the fall convention of the Association of Appraiser Regulatory Officials (AARO). Ms. Oreto asked the Board to keep an open mind and be amenable to considering changes to existing Statutes rather than moving away from the regulation of Appraisal Management Companies to protect the financial interests of the People of Florida.

Director Watkins provided the Board with an update of the Department's status for any legislative action. She explained that at this time, States are still awaiting a final clarification on the definition of a federally related

transaction. In June of 2016 or possibly earlier, she will be asked to provide recommendations for the 2017 Legislative Session.

The Board heard comment from several members of the public. Those who spoke to the issue were Former Chair of the Florida Real Estate Appraisal Board, Ms. Joni Herndon, Certified Residential Appraiser of Tampa; Former Chair of the Florida Real Estate Appraisal Board, Mr. Frank Gregoire, Certified Residential Appraiser of St. Petersburg; Mr. Bob Morrison of the American Society of Appraisers.

Petition for Rulemaking

Mr. Scott DiBiasio, Manager, State & Industry Affairs of the Appraisal Institute appeared to present his Petition to the Board. He stated that all he appears today to ask the Board to open the rule to rulemaking and schedule the rules workshop to bring all the stakeholders to the table to as a first step to addressing the changes to Florida's rule being proposed by the Appraisal Institute.

Board Counsel Clark provided guidance to this process, advising the Board that prior to taking any action, the Board must determine if The Appraisal Institute (Institute) meets the threshold of standing to make this request. The Board entered into discussion. Following discussion, Mr. Bush moved; Mr. Simmons seconded; motion carried by split vote to find the Institute does not have standing in order to make the Petition.

The Board heard public comment from Mr. Frank Gregoire, Mr. Kevin Flankey, and Mr. Bob Morrison. Their comments leaned away from implementing a second set of valuation standards in the State of Florida.

Mr. Bush moved; Mr. Simmons seconded; motion carried by split vote to open Rule 61J1-9.001 for rulemaking.

Resolution for Former Member Roy Pechillo

Director Watkins read into the record a Resolution recognizing the service of Former Member Roy Pechillo. The Resolution is part of these minutes.

Director's Comments

Ms. Watkins reported two boards of The Appraisal Foundation will hold meetings in Tampa, Florida in February 2016. The Industry Advisory Council meeting will be held on February 18th and the Appraisal Standards Board will meet on February 19th. Additional information is available on The Appraisal Foundation's website.

Chair's Comments

Public Comments

There were no comments from the audience.

Meeting Recess

There being no other business, the Chair recessed the meeting at approximately 3:50 pm. The next general meeting of the Florida Real Estate Appraisal Board will held February 9, 2016 in Orlando.

ATTEST:



Clay Ketcham, Acting Chair
Florida Real Estate Appraisal Board



Juana Watkins, Executive Director
Florida Real Estate Appraisal Board