

Charles W. Drago, Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
December 8 & 9, 2008
General Meeting**

Chair Joni Herndon called the meeting of the Florida Real Estate Board to order, at approximately 9:05 a.m., in Orlando, Florida, on this Monday, the 8th day of December, 2008.

Member Small offered the Invocation and Member Wright led the Pledge of Allegiance. The Chair introduced the members present: Vice-Chair Michael Rogers, Cynthia Wright, Jay Small and Susan Dailey. Mary Ellen Clark, Assistant Attorney General, appeared as counsel for the Board. Ms. Clark declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Jr., Division Director and Executive Director for the Board; Juana Watkins, Deputy Director; James Harwood, Chief Attorney, Chris Lindamood, Jason Holtz, Allison McDonald, and Robert Minarcin, Jennifer Blakeman, Senior Attorneys; Beverly Ridenauer, Government Analyst II; Sheila Hall, Government Analyst; Peggy Hanna, Government Analyst I; Peter Patterson, Government Analyst I; Lori Crawford, Deputy Clerk. American Court Reporting (407.896.1813) provided court reporter services.

Approval of the Minutes

The Board unanimously approved the Minutes of the October 27 & 28, 2008 General Meeting as written.

Summary of Applicants:

New Applicants:

Ms. Ridenauer presented the Summary of Applicants and the Board decisions are as follows:

01-12-08 Gregory Kevin Gilmour – Registered Trainee – Denied
02-12-08 David Bright, Jr. – Registered Trainee - Denied

Legal Docket

The Board addressed the Legal Agenda, consisting of 14 docket items. The Board considered thirteen docket items and approved the continuance of one docket item. The Board's decisions on these matters are maintained at the Division of Real Estate headquarters.

The Chair adjourned the meeting at approximately 3:10 p.m.

December 9, 2008

Chair Joni Herndon reconvened the meeting of the Florida Real Estate Board at approximately 8:40 a.m., in Orlando, Florida, on this 9th day of December, 2008.

Member Wright offered the Invocation and Vice-Chair Rogers led the Pledge of Allegiance. The Chair introduced the members present: Vice-Chair Michael Rogers, Susan Dailey, and Cynthia Wright. Mary Ellen Clark, Assistant Attorney General, appeared as counsel for the Board. Ms. Clark declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Jr., Division Director and Executive Director for the Board; Juana Watkins, Deputy Director; James Harwood, Chief Attorney, Jennifer Blakeman, Senior Attorney; Beverly Ridenauer, Government Analyst II; Denise Johnson, OMC II; JoEllen Peacock, Education Coordinator; Peter Patterson, Government Analyst I; Lori Crawford, Deputy Clerk. April Skilling, Deputy General Counsel and Maura Bolivar, Chief Attorney of Unlicensed Activity were also in attendance. Member Small had an excused absence. American Court Reporting (407.896.1813) provided court reporter services.

Board Business

Rules Report

Counsel Clark informed the Board there are new procedures in place that must be completed before the pending rules can be published. A Statement of Estimated Regulatory Costs (SERC) must accompany each rule as it is presented to the Joint Administrative Procedures Committee (JAPC) for approval.

Statement of Estimated Regulatory Costs (SERC)

Director O'Bryant explained the purpose of the Statement of Estimated Regulatory Costs (SERC) is to determine what, if any, economic impact the rule change will place upon the appraisal industry. Deputy General Counsel, April Skilling reported to the Board that the Department is still building the business process that will permit ease of processing rules and SERCs in the future.

Board Counsel Clark advised the Board it is not the Department's business process, but a decision by the Board that is required to move the rules toward completion. She explained the Board must consider each rule and vote to determine if there will be any economic impact to the appraisal industry for each rule on the report.

The Board took action as follows:

61J1-3.004 Issuance of Certification - Upon motion by Member Dailey and second by Vice-Chair Rogers, the Board voted the previously approved language of the rule will not have an economic impact on small business.

61J1-4.001 Education Requirements – Upon motion by Member Dailey and second by Vice-Chair Rogers, the Board voted the previously approved language of the rule will not have an economic impact on small business.

61J1-009 Post Licensing Education for Registered Trainee Appraisers - No change was made to this rule and it was removed from the report.

61J1-4.010 Supervision and Training of Registered Trainee Appraisers – The Board tabled the rule until the February 2009 meeting for additional discussion.

61J1-5.001 Appraisal Examination Areas of Competency – Upon motion by Member Dailey, with second by Vice-Chair Rogers, the Board voted the previously approved language of the rule will not have an economic impact on small business.

61J1-6.001 Experience Requirements – The Board tabled the rule until the February 2009 meeting for additional discussion.

61J1-7.003 Advertising – Upon motion by Member Dailey and second by Member Wright, the Board voted the previously approved language of the rule will not have an economic impact on small business.

61J1-9.001 Standards of Appraisal Practice – Upon motion by Member Dailey and second by Member Wright, the Board voted the previously approved language of the rule will not have an economic impact on small business

61J1-10.001 Definitions – Upon motion by Member Dailey and second by Member Wright, the Board voted the previously approved language of the rule will not have an economic impact on small business

61J1-10.002 Registered Trainee Real Estate Appraiser; 61J1-10.003 Certified Residential Appraiser; 61J1-10.004 Certified General Appraiser – Upon motion by Member Dailey and second by Member Wright, the Board voted the previously approved language of the rule will not have an economic impact on small business

Emergency Suspension Orders and Emergency Restriction Orders

Deputy General Counsel April Skilling introduced Maura Bolivar, Chief Attorney of Unlicensed Activity. Ms. Skilling provided the Board with a copy of the statutory guidelines for Emergency Suspension Orders (ESO) and Emergency Restriction Orders (ERO). She explained the difference between them and the standards that must be met to qualify a situation for action by the Department.

Ms. Bolivar, Chief Attorney of Unlicensed Activity presented the Board with an update of the Unlicensed Activity program and the ongoing work that is being conducted to enhance the program.

Expansion of Citation Authority

Vice-Chair Rogers led a discussion of how the citation authority provided by s. 475, Part II, Florida Statutes and Chapter 61J1-8.001, Florida Administrative Code. Mr. Rogers suggested expanded use of the citation authority may lessen the current case load being processed by the Enforcement and Legal Staff. By general consensus the Board agreed to begin the process of determining which disciplinary actions could be modified without placing the public health, safety and welfare at risk.

Following discussion, Counsel Clark suggested the members of the Probable Cause Panel and the Legal Prosecutors may have the best knowledge of the most frequent offenses which could be resolved by use of a citation.

Director O'Bryant stated he will meet with Staff to review and identify the disciplinary actions that might be modified to meet the standards identified and bring them back to the Board for review.

Plain Language for Disciplinary Actions

Chair Herndon asked the Department to revise the language that is published in the Disciplinary Action Report that is posted for public viewing. The language does refer to the rule or statute that was violated, but the same violation can have different penalties, based upon the severity of the offense. The Chair stated she believes the website information is used by the public to verify an appraiser's license and other appraisers as a training tool. By explaining what happened and how the Board determined what discipline to administer will be a learning tool to appraisers.

Director O'Bryant stated he will work with Chief Attorney Harwood to develop a sampling of language to bring before the Board in February.

Supervisory Appraiser Requirements

Chair Herndon expressed her concerns about the existing supervisor / trainee regulations in Florida's appraisal program. The current program has no restriction against a person who recently became certified becoming a supervisor for up to three trainees the same day as the license was obtained. There are no guidelines in place requiring newly licensed appraisers to wait a period of time until they are more experienced as certified appraisers before they can supervise trainees.

The Chair suggested that establishing a specific period of time before a newly certified appraiser may become a supervisor would be beneficial to both the supervisor and the trainee. Provisions to promulgate rules can be found under the definition of Supervisory Appraiser in s. 475.011(o), Florida Statutes.

Following discussion, the Board proposed amended language for Rule 61J1-4.010 (1) as follows:

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

(1) All registered trainee appraisers shall be subject to direct supervision by a supervising appraiser in good standing who shall be state licensed or certified for a period of not less than -- months and hold a Current, Active license not subject to practice restrictions.

The Board heard comments from the members of the audience who provided several suggestions on ways to change the Trainee / Supervisor program so it would include a method of holding the supervisor accountable for a pre-planned training program before hiring trainee appraisers. The outcome of the suggested changes to the program is to provide quality education and training for registered trainee appraisers and ultimately produce trainees who become competent appraisers.

The use of practicum courses that have been approved by the Appraiser Qualifications Board (AQB) Course Approval Program (CAP) or the department was also discussed. Director O'Bryant acknowledged that practicum experience is permitted by the AQB, but Florida's current statute and administrative code does not allow for the use of practicum experience toward the minimum experience requirements.

The Director reported to the Board that he knows of two states that have practicum experience courses in place. He will seek copies of those courses to review and report back to the Board.

Federal Reserve Proposed Valuation Guidelines

Chair Herndon addressed the Proposed Interagency Appraisal and Evaluation Guidelines document that was published by the Office of the Comptroller of the Currency, Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration.

The Chair made comments about the document and took comments from the members of the Board and the audience. She asked that the Board consider sending a written response to this document. Director O'Bryant recommended that the members of the Board respond individually to the individuals named in the document as contact persons.

Licensed Appraisers

The Federal Housing Administration (FHA) has notified the Department that only certified appraisers may request and receive reinstatement on the FHA appraiser roster. Licensed appraisers will no longer be approved by the FHA to perform appraisals, effective October 1, 2008.

Florida changed its licensing law in 2006 to discontinue issuing the "Licensed" appraiser credential. Those individuals who were licensed appraisers were permitted to continue working with that credential. Florida currently has sixty-two licensed appraisers. This change by the FHA requires some action be taken to ensure there is a plan to guide licensed appraisers in the right direction.

Director O'Bryant stated he will discuss with our Appraisal Subcommittee (ASC) Policy Manager during her visit on November 14th to seek some guidance in the matter.

Administrative Matters

Ratification of Suspended Licenses

Upon motion by Member Dailey with second by Vice-Chair Rogers, the Board voted unanimously to ratify the reinstatement of the certified residential license of Harry A. Alvarez.

Ratification of Course Approvals

Upon motion by Vice-Chair Rogers with second by Member Wright, the Board voted unanimously to ratify the course approvals for the weeks of September 27, 2008, October 20, 2008, and October 27, 2008.

Director's Comments

Director O'Bryant provided a brief update regarding the following topics:

- Appraisal Subcommittee Priority Contact Visit – This was the first year the ASC has not come to conduct a review of our appraiser program. This was the result of Florida being removed from probation in 2007. This visit established that we are meeting all of our requirements as outlined for us as a regulatory agency.
- Enforcement and Legal Prosecution Cases – Director O'Bryant updated the Board with the process used to track investigation cases as they move through the enforcement and legal prosecution processes.

Chair Herndon thanked the Director for the update. She recognized the Legal Prosecution staff for their success with cases that have been heard by the Department of Administrative Hearings (DOAH) and thanked Chief Attorney Harwood.

- Status of Licensed Appraisers – Director O'Bryant reported to the Board that the Department of Housing and Urban Development (HUD) gave notice that eligibility requirements for the Federal Housing Administration (FHA) Appraiser Roster have changed. Appraisers applying to that agency now must be certified rather than licensed.

This decision means Florida must develop a program to transition licensed appraisers to certified residential appraisers. The department has been in contact with the Office of General Counsel for HUD for additional information has discussed the matter with the ASC. The ASC has advised the individuals involved must meet the 2008 criteria.

Following discussion, the Board asked that a matrix of education and experience changes that have occurred since the program began be brought to the February meeting.

- Discipline Report – the report requested by the Chair is still a work in progress. Some of the parameters requested by the Board must be completed manually to ensure they are correct. It will be provided at the February meeting.

Chair's Comments

- Staff Recognition – Chair Herndon recognized Director O'Bryant and Division Staff for all the work they have done to improve the appraisal program in Florida.
- Appraisal Management Company Registration and Regulation Model Act – Chair Herndon introduced Frank Gregoire, Former FREAB Chair, Jack Crahan, Region X, Appraisal Institute and Bob Hartnett, Lobbyist for the Appraisal Institute to present a proposal to the Board to initiate legislative action to regulate appraisal management companies under the umbrella of s. 475, Part II, Florida Statutes. The Board discussed the model at length and requested some changes in language.

Following the in depth discussion and upon motion by Member Small, with second by Member Wright, the Board voted unanimously to support in concept the regulation of appraisal management companies. Four members voted for the motion with one member recused.

Due to the nature of the proceedings, Member Susan Dailey recused herself at the beginning of this topic of discussion.

Correspondence

- The Board reviewed correspondence from Rob Beal regarding broker price opinions.

Public Comments

The Board received comments from the audience.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 2:30 p.m. The Florida Real Estate Board will hold its next general meeting on February 9 & 10, 2009 in Orlando, Florida.

ATTEST:

Joni L. Herndon, Chair
Florida Real Estate Appraisal Board

Thomas W. O'Bryant, Jr., Executive Director
Florida Real Estate Appraisal Board

Date _____

Date _____

Prepared by: _____
Beverly Ridenauer
Government Analyst II

Date _____