

Holly Benson
Secretary

Charlie Crist
Governor

FLORIDA REAL ESTATE APPRAISAL BOARD MINUTES

Embassy Suites
10450 Corkscrew Commons Drive
Estero, Florida, 33928

October 8 & 9, 2007 - Amended

Chair Frank Gregoire called the meeting of the Florida Real Estate Appraisal Board to order at 9:00 a.m., Monday, October 8, 2007.

Member Joni Herndon offered the Invocation and Past Member Patricia Birch led the Pledge of Allegiance. The Chair introduced the Members present: Vice-Chair Joni Herndon; Cynthia Wright, Jay Small, and Michael Rogers. Member Susan Daily had an excused absence. Reginald Dixon, Assistant Attorney General, appeared as counsel for the Board. The Chair declared a quorum present.

Division staff present at the meeting: Thomas W. O'Bryant, Jr., James Harwood, Chief Attorney; Racquel White, Senior Attorney; Fred Clanton, Investigations Supervisor, JoEllen Peacock, Education Coordinator; Beverly Ridenauer, Government Analyst II; Lori Crawford, Regulatory Supervisor/Consultant; Alma Roberts, Operations Management Consultant II. Department staff present at the meeting: Director; April Skilling, Deputy General Counsel; Gus Ashoo, Chief, Bureau of Education and Testing; Alex Bosque, Examination Development Supervisor; Joseph Dean, Government Analyst. Martina Reporting Services, 239.334.6545 provided court-reporting services.

Approval of Minutes

Upon motion by Member Wright, seconded by Vice Chair Herndon, the Board approved the minutes of the August 6 & 7, 2007 meeting as amended.

Upon motion by Member Small, with second by Member Rogers, the Board approved the minutes of the September 7, 2007 meeting.

Chair Gregoire presented former Member Patricia Birch with the Resolution from the Board that was read into the record at the August 6, 2007 meeting. The Resolution was presented to Ms. Birch in recognition of her years of dedicated service to the State of Florida, the Florida Real Estate Appraisal Board and the appraisal industry.

Division Director, Thomas O'Bryant, Jr. introduced Department of Business and Professional Regulation Secretary Holly Benson and Deputy Secretary, Andy Edwards.

Secretary Benson addressed the Board with the following:

- ◆ Thanked Chair Gregoire for his leadership over the past eight years and acknowledged his diligent efforts on behalf of the appraisal profession and the people of the State of Florida.
- ◆ Thanked the Board on behalf of Governor Crist, citing the leadership, hard work and their strong voice which has set very high standards for the appraisal industry in Florida.
- ◆ Described some of the hurdles the Department has overcome and future projects still to come with the funds allotted by the Legislature for the Document Imaging Project that will soon be in place.
- ◆ Asked the Board to continue their support of the Department by lobbying the Legislature for additional budget to meet the needs of the Division of Real Estate.
- ◆ Reported to the Board that Director O'Bryant has made his budget request and with the use of performance measures, has made a good case for additional staff to better serve the Board.
- ◆ Thanked the Board for approving the fee holiday, which means fees will be going back to the licensees.
- ◆ Secretary Benson thanked Chair Gregoire for his leadership against mortgage fraud. The results of which are that a meeting will now be held quarterly so the agencies involved will be able to work together to address the issue of mortgage fraud.
- ◆ Introduced April Skilling, Deputy General Counsel of Professions. Ms. Skilling has worked very hard with the Bureau of Education and Testing to resolve the matter of approval of Florida's examination by the Appraiser Qualifications Board (AQB).
 - The Bureau of Education and Testing staff has made a diligent effort to complete the Florida exam so it can be submitted to the AQB for equivalency approval.
 - During a meeting between the Department and the AQB, staff was made aware of a major hurdle to the approval of the Florida examination. The AQB will permit Florida to submit its examination for equivalency, but that equivalency means the Department will not be able to provide an exam review for applicants.
 - In light of this information and in order to be prepared for January 1, 2008, the Department believes Florida will need to use the National Exam to be in compliance with National Standards.
 - The Department also feels an exam that tests Florida laws and rules is appropriate.
 - The Secretary said that although this is not the option the Board wants and may not be the best option, it is the option that the Department must look at for now.
 - The Department will look at a legislative agenda to see how all of this can be changed.
 - Secretary Benson assured the Board that the Department wants Florida to remain a model for other states and that cannot be accomplished without the Board's leadership.
- ◆ Secretary Benson also asked the Board to extend their December meeting by one additional day to permit the Department to close out more prosecution cases.

Chairman' Comments:

The Chair thanked Secretary Benson for making the effort to attend the meeting, given her schedule and provided comments as follows:

- ◆ The process used by the AQB to develop the exam has been difficult; the new exam is to be used as of January 1, 2008 but at this time, a passing score has yet to be determined.
- ◆ Florida's exam professionals could have developed an exam could have successfully achieved a more favorable result far more easily than the AQB has done.
- ◆ The AQB makes decisions that affect the appraisal industry but they answer to no one.

- ◆ The Board and Department made the right decision when they opted to move forward on a dual track of using the National Exam and continued to develop Florida's exam at the recommendation of Mr. Ashoo and Dr. Combs.
- ◆ Unlike other state regulatory boards, this Board is subject to federal oversight. Due to the current standing of the mortgage market, many individuals in Congress are reacting by proposing solutions. Most of the proposed solutions impact state appraisal boards by giving more power to the Appraisal Subcommittee (ASC) and the Appraiser Qualifications Board (AQB). None of the current solutions being offered enhances enforcement efforts, but they do diminish our enforcement by diverting enforcement resources to other areas.
- ◆ Florida must be active in Washington D.C. to make sure the rights of the State of Florida are preserved.
- ◆ The Chair said the improvements in the Customer Contact Center (CCC) are appreciated. He asked the Department to post information on the 2008 AQB criteria to the website to help those individuals answering phones and provide guidance to individuals using that site.
- ◆ Chair Gregoire reported that Deputy Secretary Edwards had asked him to create a "wish list" that would be useful in presenting budget requests to the Legislature. In response, he said he asked that the Department work with the Office of the Attorney General to establish one person to act as Counsel to both the Appraisal Board and the Real Estate Commission. This change would benefit both FREC and FREAB, the Division of Real Estate and ultimately the citizens of the State of Florida.
- ◆ Thanked Director O'Bryant for the changes he made to the Instructor's Seminars this year. It made the process more enjoyable for both the attendees and the speakers.
- ◆ The Chair concluded his remarks by thanking Secretary Benson and Director O'Bryant for all of the improvements that have been made in this past year.

Financial Report:

Director O'Bryant provided a report on the Financial Report dated June 30, 2007. He stated this is the same report.

Chair Gregoire reported that the amount of money in the Real Estate Trust Fund permitted the FREAB to vote in a fee holiday for the licensing period that will begin December 1, 2008 and end on November 30, 2010.

Summary of Applicants:

Reconsideration

SOA 10-10-07 Terrance L. Boatman – Counsel Dixon confirmed the reason for the Board's denial at the June 4, 2007 meeting was failure by the applicant to disclose an arrest on September 25, 2001 and the subsequent adjudication of guilt. Member Small stated his notes on this applicant reflect failure to disclose was the reason for the denial. Based upon that information, no other action was required.

Informal Hearing

SOA 09-10-08 Bryan Patrick Kuypers – Upon motion by Vice Chair Herndon, with second by Member Rogers, the Board voted to approve the application.

New Applicants

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

01-08-07	Walter Irving Coven – Registered Trainee – Denied
02-08-07	James Thomas Crumpler – Registered Trainee – Denied
03-08-07	Eddy Gorrin – Registered Trainee – Denied
04-08-07	Andrew Rainey Lyell – Certified Residential – Approved
05-08-07	Michelle Ann Mackey – Registered Trainee – Denied
06-08-07	George Morales – Registered Trainee – Denied
07-08-07	Edwin Adolfo Ortiz – Registered Trainee – Denied
08-08-07	Withdrawn by applicant
09-08-07	Jose Jesus Puentes – Registered Trainee – Approved
10-08-07	Donald Hugh Spellman – Registered Trainee – Approved
11-08-07	Craig Watson – Registered Trainee – Denied
12-08-07	Robert L. Brown – Registered Trainee – Approved
15-08-07	Eric Alan Lane – Registered Trainee – Approved

Board Business

Rules Report - FREAB Counsel Dixon addressed the Rules Report. The following have been approved and are being published:

- 61J1-2.001 Fees
- 61J1-4.010 Supervision and Training of Registered Trainee Appraisers
- 61J1-6.001 Experience Requirement
- 61J1-8.001 Citation Authority
- 61J1-8.002 Disciplinary Guidelines

Counsel Dixon reported that comment letters were sent for two rules, 61J1-4.001 Education Requirements and 61J1-4.010 Continuing Education.

- Rule 61J1-4.001 Education Requirements: Counsel Dixon asked the Board to review the language to clarify the language of the rule. Upon motion by Member Wright with second by Member Small the Board voted unanimously to approve the proposed language to clarify the roles and responsibilities education course as defined in 61J1-4.001(5)(n)(4), 61J1-4.001(6)(p)(4), and 61J1-4.001(7)(g)(4).
- Rule 61J1-4.003 Continuing Education: Upon motion by Member Small, with second by Member Rogers, the Board voted unanimously to replace previously adopted language for Subsections (1)(a) through (1)(d) to incorporate changes recommended by the Joint Administrative Procedures Committee (JAPC) and by Counsel Dixon.

Rules Work Shop:

- Rule 61J1-2.004 Exemption of Spouses of Members of Armed Forces from Renewal Provisions: This rule cannot be changed at this time. The Legislature will need to make changes to the Statute to make it AQB compliant. The Department will make it part of the legislative package to request the change.

- Rule 61J1-2.0045 Exemption of Members of Armed Forces from Renewal Provisions: This rule cannot be changed at this time. The Legislature will need to make changes to the Statute to make it AQB compliant. The Department will make it part of the legislative package to request the change.

Chair Gregoire commented that it is an insult to members of the armed forces and their spouses to give the AQB the power to make Florida change its statute strictly for the appraisal industry. Florida's current exemption for members of the armed forces on active duty works for every regulated profession in Florida. The statutes are reasonable and show respect for members of the armed forces and their families. The Chair said he believes it is unreasonable for the AQB to set standards that are contrary to those granted by the Legislature.

- Rule 61J1-3.001 Application by Individuals: Counsel Dixon asked the Board to accept the proposed amendments to the rule. Member Herndon made a motion to amend the language and move forward with rule making. With second by Member Wright, the Board voted unanimously to approve the motion.
- Rule 61J1-3.004 Issuance of Certification: Counsel Dixon asked the Board to approve the proposed changes to the language in s. (1) (6) (a) through (f). Lengthy discussion of the language for s. (1) (6) (d) concluded with a motion by Member Wright to approve the proposed language and move forward with rule making. Upon second by Member Rogers, the motion carried.

Chair Gregoire reminded the Department that Guide Notes established by the AQB are meant to be guidelines only and provide States with options, while Interpretations are mandatory. He said Florida is not required to implement reciprocity because it is not mandated by the Appraisal Subcommittee.

- Rule 61J1-10 Qualifications for Licensure: Counsel Dixon asked the Board to approve changes to the proposed rule for the following:
 - Rule 61J1-10.002 Registered Trainee Real Estate Appraiser – Upon motion by Member Wright, with second by Member Rogers, the Board voted to approve the changes to the proposed language and move forward with rule making.
 - Rule 61J1-10.003 Certified Residential Appraiser – Upon motion by Vice Chair Herndon and second by Member Wright, the Board voted to approve the changes to the proposed rule and move forward with rule making,
 - Rule 61J1-10.004 Certified General Appraiser – Upon motion by Member Wright, with second by Vice Chair Herndon, the Board approved changes to the proposed rule language and move forward with the notice and rule making.

The Chair thanked Counsel Dixon and the Department Staff for their hard work on this rule which permitted it to be approved at this meeting.

- Rule 61J1-5.001 Appraisal Examination Areas of Competency – Upon motion by Vice Chair Herndon, with second by Member Rogers, the Board voted to approve the changes to the language and move forward with rule making.

Mr. Gus Ashoo, Bureau Chief of Education and Testing addressed the Board regarding the proposed changes to Rule 61J1-5.001. He thanked Member Cynthia Wright and Bureau of Education and Testing (BET) staff members Alex Bosque, Dan Combs, and Rebecca Hollingsworth for their hard work on the Florida appraiser exam. They were almost ready to send Florida's exam to the AQB for equivalency certification with a target date of November 9, 2007.

Mr. Ashoo reported that he, as well as other Department Staff, had been under the impression that when Florida's exam was granted equivalency certification, Florida would be able to administer the exam and, if requested, permit an applicant to review their examination.

Department Staff and BET Staff held a teleconference meeting with the AQB on Friday, October 5, 2007. During the discussion the Department was advised that since Florida's exam will be deemed to be equivalent to the National Exam, all of the laws and rules that pertain to the National Exam will apply to the Florida exam, including no reviews or challenges will be permitted.

Chair Gregoire asked if the AQB had ever advertised this policy in any of the exam approval process materials. He stated most likely the AQB had once again adopted a rule that impacts state regulatory boards without the benefit of public notice.

Member Wright asked what the Department's position is in this situation; would they continue to develop the Florida exam?

Director O'Bryant responded that Secretary Benson has indicated that Florida will administer the National Exam. Board Counsel Dixon advised the Board that if Florida wants appraisers in the state to be certified, there is no choice but to use the National Exam at this time.

Director O'Bryant asked if the Board would discuss the AQB's Guide Note 4. Chair Gregoire suggested this is something that might be done in the future since Guide Note 4 is a guideline of something the state may want to do and not mandatory. He further stated that the only Practicum Course that has been developed to date is in the State of Nebraska.

- Rule 61J1-6.001 Experience Requirement – The Board had previously removed the language for “client name and address” and had approved the change to add the required signature on the work log back into the rule; no other action is required at this time.
- Rule 61J1-8.001 Citation Authority – The Board approved proposed language at the August 6, 2007 meeting. No further action is required at this time.
- Rule 61J1-8.002 Disciplinary Guidelines - The Board approved proposed language at the August 6, 2007 meeting. No further action is required at this time.

Vice Chair Herndon asked if Chapter 61J1-4 Minimum Educational Requirements had been or would be addressed. Chair Gregoire replied that much of that chapter had been moved to the new Chapter 61J1-10 Qualifications for Licensure the Counsel Dixon has proposed and the Board has approved. Eventually only the continuing education will remain in Chapter 61J1-4.

Chair Gregoire thanked Mr. Ashoo, Member Cynthia Wright, Alex Bosque, Joseph Dean, Dan Combs, and the entire staff of the Bureau of Education and Testing for all of their hard work. He added the Board is very lucky to have Mr. Ashoo working on their behalf in Tallahassee.

Director O'Bryant asked about Rule 61J1-4.003 as it pertains to continuing education credit for attendance at a Board meeting. Chair Gregoire responded that the language in the rule should read "7 of the required 30 hours", not the "5 hours" as it currently reads. The Board asked Counsel Dixon to correct the scrivener's error.

Administrative Matters

Ratification of Reinstated Licenses: Upon motion by Member Wright, with second by Member Rogers, the Board voted unanimously to approve the reinstatement of licenses to Lester Garcia, Kevin M. Jackson, and Patricia Reiter.

Ratification of Course Approvals: Upon motion by Member Small with second by Vice Chair Herndon, the Board voted to approve the courses submitted for the weeks of July 16, 2007, August 13, 2007, and September 10, 2007.

Correspondence:

Vice Chair Herndon read correspondence from Ms. Nilla Lauberts regarding "meeting a value" into the record. She suggested this letter would be a good source of information to provide to the Department of Financial Regulation.

Ms. Herndon addressed an email that was sent by a registered trainee appraiser to many contacts. In response to receiving the email, Division staff was sent to the office of the supervisor and he was advised of the proper way to advertise their services.

Director's Comments

- A copy of Congressional Bill H.R. 3012 was provided to the Board members.
- Commended the Division Staff for all of their hard work, often done with little or no recognition. People do not realize the vast amount of work that is done by a small number of people in comparison to the number of licensees statewide.
- Budget – the Division and Department have been going through the budget process so that it will be ready when the Governor needs it. It is a tedious and difficult process. The backup work and numerical justification for obtaining additional staff during a time of budgetary constraints made it a very difficult process. He thanked the Chair for his input and helping to develop the request to the Secretary.
- A meeting with the Office of Financial Regulation has taken place. Chair Gregoire, Chair Hornsleth of the Florida Real Estate Commission (FREC), a former member of the FREC, and several Division staff members were present at the meeting. In addition, several members of Division investigative staff have already been working together with the Office of Financial Regulation (OFR). There are many areas of crossover where improvement can be made and he will continue to work with the Director of the Office of Financial Regulation to create a program that will be beneficial to both agencies.

Member Small asked Chair Gregoire what reciprocity has to do with H.R. 3012, a fair mortgages practices act. Chair Gregoire asked Member Small to draft a comment letter to address those issues. He also asked him to address the matter of education courses that must be approved through the Course Approval Program (CAP) of the AQB but were denied by this state. The Chair asked that this correspondence be made available to everyone by posting it on the DRE website so licensees will know to write to their elected officials about the issues.

Director O'Bryant asked the Board to forward the draft correspondence to his office so it can be sent to the proper office in Tallahassee.

Chair's Comments

- Budget Requests – Wants to make it clear to the Legislature that this group of licensees is not funded by taxpayers, but by the licensing fees. The upcoming fee holiday will not keep the Board or Department from fulfilling their mission.
- His budget items included the following:
 - additional personnel to fulfill the obligations imposed by the ASC and AQB
 - new Board members need to be trained
 - need a fair number of investigators and prosecutors to comply with ASC Policy Statement 10
 - Division needs sufficient funds to pay for expert witnesses for formal hearings before the Department of Administrative Hearings
 - Continued involvement with AARO
 - Plan a meeting in northeast Florida next year
 - Need funding for communications with licensees – the website needs to be improved
 - One counsel shared by the FREC and the FREAB; Mr. Dixon would be spread less thin if he only had two boards with concentration in real estate
 - The meeting with Mr. Bob Rosenau and Mr. Bob Tedcastle of the Office of Financial Regulation (OFR) was the result of an 18-month effort. They were very receptive to what was said. There are 82,000 mortgage brokers, but approximately 75% of the lenders that the public deals with are federally regulated and therefore exempt from state regulation.
 - The OFR staff said they could not help with collecting outstanding debts, but did make commitments as follows:
 - ◆ If there is a written request to alter an appraisal report, omit information, remove photographs, these are chargeable offenses. They will prosecute these things.
 - ◆ They agreed to publish an article by the Chair in their newsletter
 - ◆ They agreed to meet again
 - They asked the Chair to speak at their annual meeting which will be attended by members of the financial regulation agency.
 - Thanked Director O'Bryant for his efforts in establishing contact with the Office of Financial Regulation.
 - Thanked DRE staff for their hard work as he routinely gets responses to his requests during non-working hours
 - Thanked Tallahassee staff for their hard work as well

Director O'Bryant added to his comments and reported that 50 members of his staff will be taking the 15-hour National USPAP course at the end of October.

Public Comment

Patricia Birch from Miami – Wanted to acknowledge to everyone what a pleasure it has been working with the Florida Real Estate Appraisal Board and staff for the past seven years, stating that it was a wonderful time. She wanted to recognize how rewarding the position has been and all of the changes that were made during her tenure. She thanked the DRE and Department staff for their diligence and dedication to the appraiser profession in the State of Florida.

There being no other business, the Chair adjourned the meeting.

Tuesday, October 9, 2007

Chair Frank Gregoire reconvened the meeting of the Florida Real Estate Appraisal Board at approximately 8:40 a.m. on Tuesday October 9, 2007. Member Joni Herndon offered the Invocation and Member Jay Small led the Pledge of Allegiance.

The Chair introduced the Members present: Vice-Chair Joni Herndon; Susan Dailey; Jay Small, Cynthia Wright and Member Michael Rogers. Reginald Dixon appeared as Counsel for the Board. The Chair declared a quorum present.

Division staff present at the meeting: Thomas W. O'Bryant, Jr., Director; April Skilling, Deputy General Counsel; James Harwood, Chief Attorney; Raquel White, Chris Lindamood, Senior Attorneys; Fred Clanton, Investigation Supervisor; JoEllen Peacock, Education Coordinator; Lori Crawford, Deputy Clerk / Regulatory Supervisor/Consultant; Alma Roberts, Operations Management Consultant II. American Court Reporting, 407-896-1813, provided court-reporting services.

Legal Docket:

The Legal Staff presented the Legal Agenda. The Board heard 25 cases and withdrew two cases. The Board's decisions on these matters are maintained at its headquarters in Orlando, Florida. The next general meeting of the Florida Real Estate Appraisal Board is scheduled for December 6 and 7, 2007 in Orlando, Florida.

ATTEST:

Frank Gregoire, 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 _____