

MINUTES
ALABAMA REAL ESTATE APPRAISERS BOARD
RSA UNION STREET
SUITE 370
MONTGOMERY, ALABAMA
May 19, 2016

MEMBERS PRESENT:

Mr. Edmond G. Eslava, III (Chairman)
Mr. Dennis Key (Vice-Chairman)
Ms. Angie Frost
Ms. Patrice McClammy
Mr. Lew Watson
Mr. Billy Cotter
Mr. Richard D. Pettey
Mr. Robert Butler
Mr. Christopher Baker

MEMBERS ABSENT:

None

OTHERS PRESENT:

Mrs. Lisa Brooks, Executive Director
Ms. Neva Conway, Legal Counsel
Mrs. Carolyn Greene, Executive Secretary
Mr. Sam Davis, Investigator
Mr. Joe Dixon, Investigator

GUESTS PRESENT:

Mrs. Jessica Boudreaux, Trainee Real Property Appraiser, Grand Bay
Mr. Hamilton Boudreaux, Certified General Real Property Appraiser, Grand Bay
Mr. Rick Church, Certified General Real Property Appraiser, Deatsville

- 1.0 With quorum present, Mr. Edmond G. Eslava, III, Chairman, called the meeting to order at 9:05 a.m. Mrs. Carolyn Greene, Executive Secretary, recorded the minutes. The meeting was held in the 3rd Floor Conference Room, 100 North Union Street, Montgomery, Alabama. Prior notice of the meeting was posted on the Secretary of State's website on February 2, 2016 in accordance with the Alabama Open Meetings Act.
- 2.0 The meeting was opened with prayer and the Pledge of Allegiance, led by Mr. Eslava.
- 3.0 Members present were, Mr. Edmond G. Eslava, III, Mr. Billy Cotter, Mr. Lew Watson, Ms. Angie Frost, Mr. Richard D. Pettey, Patrice McClammy, Mr. Christopher Baker, Mr. Robert Butler and Mr. Dennis Key.

Mr. Eslava welcomed the guests present and asked the Board Members and staff to introduce themselves. Mr. Eslava then asked the guests to introduce themselves.

4.0 On motion by Mr. Watson and second by Mr. Pettey, the regular minutes for March 17, 2016 were approved as written. Motion carried by unanimous vote.

5.0 Ms. Conway informed the Board that there is one administrative hearing set for June before an Administrative Law Judge.

6.0 Mr. Watson reported that there was no Legislative business to discuss at this time.

At 9:08 a.m., Ms. Conway called for a Public Hearing on 780-X-1-.17, Study of Customary and Reasonable Fee for Appraisals of Alabama Properties; 780-X-17-.18, Business Practices; 780-X-17-.21, Appraiser Independence and Customary and Reasonable Fees. There were no comments and the public hearing was closed.

Ms. Conway discussed the proposed rule changes to 780-X-17-.04, AMC Registration Renewal; 780-X-18-.06, AMC Renewal Application. On motion by Mr. Pettey and second by Mr. Key, the Board voted to adopt the changes as written, file it with Legislative Reference Services and to submit for final certification if no comments are received during the comment period. Motion carried by unanimous vote.

Ms. Conway discussed the draft of the Request for Proposal for a Periodic Study of Customary and Reasonable Appraisal Fees. Mr. Rick Church addressed the Board regarding the subject.

7.0 Mr. Alexander McCall is requesting a waiver of the rule that no more than 40% of the cumulative experience points may be earned from any one category. On motion by Ms. Frost and second by Mr. Key, the Board voted to grant a waiver to Mr. Alexander McCall. Mr. Butler opposed the motion. Those in favor were Ms. Frost, Mr. Key, Ms. McClammy, Mr. Pettey, Mr. Eslava, Mr. Cotter, Mr. Watson and Mr. Baker. Motion carried.

On motion by Mr. Watson and second by Ms. McClammy, the following applications were voted on as listed. Motion carried by unanimous vote.

7.1 **Trainee Real Property Appraiser applications approved:** Patricia A. Pace and John L. Wilkes. **Applications deferred:** None. **Applications denied:** None.

Trainee Real Property Appraiser Experience Logs for Review: **Logs approved:** Scott Anderson, Britton Falkner, Seth Knowles, and John Price. **Logs deferred:** Max Burkhalter, Nathan Childers, Todd Crawford and Jamie Shertzer. **Logs denied:** None.

7.2 **State Registered Real Property Appraiser application approved:** Seth Knowles. **Applications deferred:** None. **Applications denied:** None.

7.3 **Licensed Real Property Appraiser applications approved:** None. **Applications deferred:** None. **Applications denied:** None.

7.4 **Certified Residential Real Property Appraiser applications approved:** None. **Application deferred:** Christopher Joseph Green. **Applications denied:** None.

7.5 **Certified General Real Property Appraiser applications approved:** Will Cabaniss, James Wade Griffin (Recip.)(GA), John Coe Hottle, Jr. (Recip.)(MO), James Edward Lester, Jr. (Recip.)(FL), Edwin William Litloff, Jr. (Recip.)(TX), Daniel Henry Loflin, Jr. (Recip.)(MS), Lacy Alexander McCall, Robert Brett Moore (Recip.)(TX), Evan Andrew Pape (Recip.)(GA), Joe William Parker (Recip.)(MS), Jason Paul Ribelin (Recip.)(TX), Jeffrey Alfred Smith (Recip.)(NC), and Diana Svedics (Recip.)(VA). **Applications deferred:** None. **Applications denied:** None.

7.6 **Mentor applications approved:** Joseph T. Lundy, Patrick Mackin and Joseph Vegliacich. **Application deferred:** None. **Applications denied:** None.

8.0 Ms. Frost presented the Finance report and stated that the Board was 59% into Fiscal Year 2016 and 52% into budget expenditures. Ms. Frost stated that there were no negative trends that could not be reconciled at this time.

Ms. Frost and Mrs. Brooks discussed expenditures that the Board will possibly incur in the near future, including SB80 (extra review of administrative rules for anti-competitive impact), the Customary and Reasonable Fee Study, the cost to put on the new course, the updates to the website and the Account Clerk and Legal Research Assistant positions. The Board asked Mrs. Brooks to have an estimate for updates to the Board's website for the July Board meeting. Ms. Frost made a motion to rescind the previous vote to lower appraiser license fees and to leave them as they were. Ms. McClammy seconded the motion. Those in favor of the motion were Ms. Frost, Ms. McClammy, Mr. Butler and Mr. Cotter. Those against the motion were Mr. Key, Mr. Eslava, Mr. Pettey, Mr. Baker and Mr. Watson. Motion was denied. Ms. McClammy discussed her concerns regarding the license fee decrease.

Mr. Pettey made a motion to have Mrs. Brooks present the Board budget to the Board prior to submitting it to **budget office**. Mr. Key seconded the motion. Those in favor of the motion were Mr. Watson, Mr. Pettey, Mr. Key, Mr. Eslava, Mr. Baker and Mr. Cotter. Those opposed to the motion were Ms. Frost, Ms. McClammy and Mr. Butler. Motion carried.

On motion by Mr. Key and second by Mr. Pettey, the Board voted to approve the Finance Report. Motion carried by unanimous vote.

9.0

On motion by Mr. Key and second by Mr. Watson, the following education courses and instructor recommendations were approved, deferred, or denied as indicated. Motion carried by unanimous vote.

APPRAISAL INSTITUTE - CHICAGO

New Application:

- (CE) 2016-2017 7-Hour National USPAP Update Equivalent – 7 Hours
– Online
(Instructor: Craig Harrington)
Both Course and Instructor Approved

OREP EDUCATION NETWORK

New Application:

- (CE) How to Support and Prove Your Adjustments – 7 Hours – Online
(Instructor: Richard Hagar)
Both Course and Instructor Approved

MCKISSOCK LP

New Application:

- (CE) Residential Appraisal Review – 7 Hours – Online
(Instructor: Dan Bradley)
Both Course and Instructor Approved

Instructor Approval Only:

- (CE) A Review of Disciplinary Cases - Live Webinar – 3 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved
- (CE) Adjustments: Supported or Not Supported - Live Webinar – 7 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved
- (CE) Analyze This! Applications of Appraisal Analysis - Live Webinar – 4 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved

- (CE) Expert Witness Testimony-To Do or Not to Do - Live Webinar – 7 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved
- (CE) Fannie Mae Appraisal Guidelines - Live Webinar – 4 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved
- (CE) Reviewer’s Checklist - Live Webinar – 4 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved
- (CE) The New FHA Handbook 4000.1 - Live Webinar – 5 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved
- (CE) UAD – Up Close and Personal - Live Webinar – 3 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved
- (CE) Work File: Your Best Defense Against an Offense - Live Webinar – 5 Hours – Online
(Instructors: Robert McClelland, Joshua Walitt and Steven Craddock)
Instructors Approved

10.0 **AB 14-15** On March 17, 2016, the Board approved a negotiated Consent Settlement Order with Certified General appraiser Milton W. Holley, G00248 wherein Holley agreed to restrict his appraisal practice to 1-4 residential appraisals and other types of properties where the transaction value is less than \$250,000. Holley will pay an administrative fine of \$1,375.00. The violations are as follows: Licensee did not identify a scope of work for an income approach even though he stated in the report that the subject property is a recreational and hunting property currently being operated as a commercial fishing and hunting property. This is not consistent with Licensee’s statement that the income approach is not applicable. Licensee’s scope of work was less than what would be performed by his peer group for the same assignment. There were a number of factors which would suggest that an analyses of the legal, physical and economic factors to support the licensee’s opinion of the highest and best use of the site should have been made and reported or at least documented in the workfile: the location of the subject at Interstate system interchange and a connector road to a US Highway;

property located between the Interstate and US Highway approximately 7 miles from a midsize city downtown business district;. There is nothing in the report or in the workfile to support that Licensee's adjustments to the comparable sales are credible. Adjustments for improvements in the sales comparison approach appear to be dollar for dollar cost adjustments without market support in the report or the workfile for the very large adjustments; Licensee considered a number of factors: the location of the subject at Interstate system interchange and a connector road to a US Highway; property located between the Interstate and US Highway approximately 7 miles from a midsize city downtown business district when making adjustments for site in the sales approach but there is no data in the report or in the workfile to indicate that the amount of the adjustments are derived from the market; Licensee identified a purpose of the appraisal but not its intended use. Licensee failed to develop a site value from an appropriate appraisal method or technique, instead the licensee used sales of improved properties and unsupported adjustments to arrive at the site value used in the report. Licensee used an unsupported estimate of physical depreciation and did not address the question of functional or economic depreciation. Licensee stated in his report that the subject is operated as a commercial recreational hunting and fishing operation. Although this type of property is income producing property and is leased frequently licensee failed to develop the income approach to value and did not give a reason for excluding the income approach. Licensee used a Land Appraisal Report form to report the appraisal of an improved property. There was not enough data in the appraisal report to enable a reader of the report to understand what improvements were on the subject site, to understand what improvements were on the comparable sales and what the licensee did to develop the estimated value of the subject. The licensee's report on page 40 under Intended Use the licensee stated "The purpose of this report is to provide the client with an estimate of the fair market value of the subject property." It was apparent that the intended use was for mortgage purposes but an appraiser is required to state the intended use. Licensee utilized a canned statement on the form for Scope of Work and did not actually disclose those things that were considered and more importantly what was not considered in developing the appraisal. Licensee failed to summarize the appraisal methods and techniques that were used in the appraisal. Licensee did not explain how he mixed the Cost Approach with the Sales Comparison Approach to make adjustments for improvements in the Sales Comparison approach. The licensee also failed to state his reasoning to support the analyses, opinions and conclusions for making the adjustments which are not supported by data contained in the report or by data in the workfile. **Violations:** Standards Rule 2-2(b)(ix), Standards Rule 2-2(b)(viii), Standards Rule 2-2(b)(vii), Standards Rule 2-2(b)(ii), Standards Rule 2-1(b), Standards Rule 1-4(c), Standards Rule 1-4(b)(iii), Standards Rule 1-4(b)(i), Standards Rule 1-3(b), Standards Rule 1-2(b), Ethics Rule-Conduct, **USPAP, 2012-2013 Edition.**

Ms. Conway discussed with the Board the investigative status charts. Ms. Conway informed the Board 7 new complaints were received since

the March 2016 Board meeting, 5 complaints were dismissed, and 1 complaint was settled, leaving a total of 36 open complaints.

11.0 The Board reviewed Probable Cause Report **AB-15-19**: With Mr. Butler recusing, on motion by Mr. Key and second by Ms. McClammy, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-24**: With Mr. Key and Mr. Butler recusing, on motion by Mr. Watson and second by Mr. Pettey, the Board voted that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-26**: With Mr. Key, Mr. Pettey and Mr. Baker recusing, on motion by Mr. Watson and second by Ms. McClammy, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-33**: With Mr. Baker recusing, on motion by Ms. McClammy and second by Mr. Key, the Board voted that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-16-04**: With Mr. Key recusing, on motion by Mr. Pettey and second by Ms. McClammy, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed a Request for Board Initiated Complaint **AB-16-15**: With Mr. Eslava recusing, on motion by Mr. Pettey and second by Mr. Key, the Board voted to open a formal investigation. Motion carried by unanimous vote.

12.0 There were no negotiated settlements to review.

13.0 The following reciprocal licenses were issued since the March Board meeting: James Wade Griffin ('G' GA), John Coe Hottle, Jr. ('G' MO), James Edward Lester, Jr. ('G' FL), Edwin William Litloff, Jr. ('G' TX), Daniel Henry Loflin, Jr. ('G' MS), Robert Brett Moore ('G' TX), Evan Andrew Pape ('G' GA), Joe William Parker ('G' MS), Jason Paul Ribelin ('G' TX), Jeffrey Alfred Smith ('G' NC), and Diana Svedics ('G' VA).

14.0 The Temporary Permit report was provided to the Board for their information.

15.0 The Appraisal Management report was provided to the Board for their information.

16.0 Mrs. Brooks presented a reciprocal application from Mr. Christopher Chatham. After discussion, on motion by Ms. Frost and second by Mr. Key, the Board voted to deny Mr. Chatham's application for a reciprocal

license. Motion carried by unanimous vote.

Mrs. Brooks discussed an email from Mrs. Marzei Keifi requesting an extension to her approval to take the Trainee examination. On motion by Ms. Frost and second by Mr. Watson, the Board voted to deny Mrs. Keifi's request. Motion carried by unanimous vote.

Mr. Rick Church addressed the Board regarding the Open Meetings Act, rumors about Ms. Conway and problems with Appraisal Management Companies self-reporting to the Board.

Mrs. Brooks discussed a letter from Ms. Loretta Ferguson, Administrative Service Officer with the Legislative Reference Service, Administrative Procedure Division, regarding Act 2016-256 (SB80), which became effective on the Governor's signature on May 3, 2016. This Act initiates a new review process for the Legislative Reference Service for rules adopted by a board or commission "...that regulates a profession, a controlling number of members of which are active market participants in the profession..." to determine whether the rule may significantly lessen competition and, if so, whether the rule was made pursuant to "...a clearly articulated state policy to displace competition..." adopted by the state and certify those determination to the Joint Committee on Administrative Regulation Review. The Joint Committee is required to review such a rule and approve, disapprove, disapprove with a suggested amendment, or allow the agency to withdraw the rule. The Act also provides for a similar review of "actions" of an agency subject to the Act. The Act also requires the Legislative Reference Service to charge a fee to recover its costs in making the review.

Mrs. Brooks discussed the Appraisal Subcommittee Compliance Review of Alabama's Appraiser Regulatory Program.

Mr. Eslava discussed the Board's newsletter. On motion by Mr. Watson and second by Ms. McClammy, the Board voted to publish the newsletter quarterly.

Ms. Frost made a motion to set the cost of the Board sponsored course at \$100. There was no second. Motion failed. Mr. Watson made a motion to set the cost of the Board sponsored course at \$50. Mr. Butler seconded the motion. Motion carried by unanimous vote. The course will be held in Montgomery first in August in the RSA Union Building 1st Floor Purchasing Conference Room. The first 75 appraisers to register will be accepted. Mrs. Greene will check the conference room availability and email Board members the available dates for a finalization of the course date.

17.0 There was no unfinished business to discuss at this time.

18.0 Mr. Watson reported that the FHA will hold a course in September in Atlanta. He will send the information to Mrs. Brooks for distribution to Board members.

Mr. Butler thanked the Board and staff for their prayers for his family upon the passing of his son and mother and for the contribution made in his son's name.

- 19.0 At 11:25 a.m., on motion by Mr. Watson and second by Mr. Pettey, the Board voted to adjourn the regular Board meeting. Motion carried by unanimous vote. The Board's tentative meeting schedule for the remainder of 2016 is July 21, 2016, September 15, 2016 and November 17, 2015 in the 3rd Floor Conference Room, 100 North Union Street, Montgomery, Alabama.

Sincerely,

Carolyn Greene
Executive Secretary
/cg

APPROVED: _____
Edmond G. Eslava, III, Chairman