

MINUTES
ALABAMA REAL ESTATE APPRAISERS BOARD
RSA UNION STREET
SUITE 370
MONTGOMERY, ALABAMA
November 19, 2015

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None

OTHERS PRESENT:

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

GUESTS PRESENT:

Kristine Williams, Trainee Appraiser, Northport, Alabama
Michael Paradise, Certified Residential Appraiser, Decatur, Alabama

- 1.0 With quorum present, Mr. Edmond G. Eslava, III, Chairman, called the meeting to order at 9:11 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 December 3, 2014 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, Mr. Robert Butler, Mr. Richard D. Pettey, Ms. Angie Frost, Mr. Christopher Baker, Patrice McClammy 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. Key, the regular minutes for September 17, 2015 were approved as written. Motion carried by unanimous vote.

5.0 Ms. Conway informed the Board that there was no Pending Litigation to present.

6.0 Mr. Watson informed the Board that there was no Legislative report to present.

7.0 On motion by Mr. Key and second by Mr. Butler, the Board voted to defer Mr. Joseph Christopher Gattozzi's State Registered application until the January 2016 Board meeting. Mr. Key will select new samples from Mr. Gattozzi's addendum log in January for review. Motion carried by unanimous vote.

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

7.1 **Trainee Real Property Appraiser applications approved:** Maricia Dillard and Steven Lance Nobles. **Applications deferred:** None. **Applications denied:** None.

Trainee Real Property Appraiser Experience Logs for Review: **Logs approved:** Joseph Christopher Gattozzi and Denson Helms. **Logs deferred:** Thomas Boydstun, Max Burkhalter, and Britton Falkner, Tammie Haddock. **Logs denied:** None.

7.2 **State Registered Real Property Appraiser applications approved:** John Ward Weiss. **Applications deferred:** Chris Gattozzi. **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:** Homer Legrand Baldwin, III, Edward Fred Boesch (Recip.)(FL), Jennifer Diane Boyer (Recip.)(FL), Karen Kay Jones (Recip.)(TX), Brian Roger Messer (Recip.)(WI), Nancy Turner Oliver, Rachel Oliver Treadwell (Recip.)(GA) and Nathan Wallace. **Application deferred:** None. **Applications denied:** None.

7.5 **Certified General Real Property Appraiser applications approved:** Jana Elizabeth Anderson (Recip.)(TX), John Frank Cottrell (Recip.)(TX), Lynda A. Gallagher (Recip.)(IL), Stephen Andrew Griffith (Recip.)(FL), Haynes Templeton Hendry (Recip.)(FL), Tony M. Jenkins (Recip.)(NC), Sung Lee (Recip.)(NJ), Glenda Lenart-Michaels (Recip.)(TX), David Lee Maul (Recip.)(GA), Ben Allen Parker (Recip.)(FL) Mark F. Pomykacz

(Recip.)(NJ), Edward McKnight Sowell (Recip.)(GA), Kenny Wagnon and David Russell Walden (Recip.)(IL). **Applications deferred:** Brandon Beard. **Applications denied:** Benjamin Eugene Carpenter.

7.6 **Mentor application approved:** Hamilton Boudreaux, III. **Application deferred:** None. **Applications denied:** None.

8.0 Ms. Frost presented the Finance report and stated that the Board was 8% into Fiscal Year 2016 and 7% into budget expenditures. Ms. Frost stated that there were no negative trends that could not be reconciled at this time.

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

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

APPRAISAL INSTITUTE – ALABAMA CHAPTER

New Applications:

(CE) 2016-2017 USPAP 7-Hr Update Course – 7 Hours – Classroom
(Instructors: Charles Crider and James Atwood)
Both Course and Instructors Approved

(CE) Eminent Domain for Alabama Appraisers – 4 Hours – Classroom
(Instructors: Warren Herlong, Casey Pipes and Richard Maloy)
Both Course and Instructors Approved

APPRAISAL INSTITUTE – CHICAGO CHAPTER

New Applications:

(CE) 2016-2017 USPAP 7-Hour Update Course – 7 Hours – Classroom
(Instructor: Tom Kirby)
Both Course and Instructor Approved

(LIC) 2016-2017 USPAP 15-Hour Course – 15 Hours – Classroom
(Instructor: Tom Kirby)
Both Course and Instructor Approved

(CE) Eminent Domain & Condemnation – 7 Hours – Online
(Instructor: John Underwood)
Both Course and Instructor Approved

(LIC) Advanced Concepts & Case Studies - Synchronous – 40 Hours – Online
(Instructor: Don Emerson)
Both Course and Instructor Approved

MCKISSOCK, LP

New Applications:

(CE) 2016-2017 7-Hour National USPAP Update Course – 7 Hours – Online

(Instructor: Dan Bradley)

Both Course and Instructor Approved

(CE) National USPAP Update 2016-2017 – 7 Hours – Classroom
(Instructors: Dan Bradley, Wally Czekalski, Chuck Huntoon, Tracy Martin, Larry McMillen, Steve Vehmeier, Steve Maher and John Smithmyer)

Both Course and Instructors Approved

NAIFA

New Application:

(CE) 2016-2017 7 Hour National USPAP Update – 7 Hours – Classroom

(Instructor: Mike Orman)

Both Course and Instructor Approved

REQUESTS FOR CONTINUING EDUCATION CREDIT

Mrs. Brooks discussed a request from Mr. Jeff Jones for credit for attending CCIM Institute's course Financial Analysis for Commercial Investment Real Estate. On motion by Mr. Watson and second by Mr. Baker, the Board voted to grant 7 hours continuing education credit to Mr. Jones. Motion carried by unanimous vote.

Mr. Eslava discussed the development of the new Board sponsored course:

- Mr. Key and Mr. Watson have reviewed drafts of the course and made suggestions.
- Mr. Davis and Mr. Dixon will incorporate changes by the January 2016 Board meeting.
- On motion by Mr. Key and second by Ms. Frost, the Board voted to hold a dress rehearsal on Friday, January 22, 2016. Motion carried by unanimous vote. Each Board member will invite 1 or 2 appraisers from his or her District to attend the dress rehearsal and critique the course and presentation for final development.
- The Board discussed potential expenses for the course and the

fee that will be charged for attendance. The course fee decision has been deferred until the January 2016 Board meeting to gather additional information.

- The Board discussed holding the course in the various Congressional districts. Each Board member will research facilities in their districts where the course can be held.
- On motion by Mr. Pettey and second by Mr. Key, the Board voted to grant Mr. Davis and Mr. Dixon 14 hours of continuing education credit for the development of the course. Motion carried by unanimous vote.
- On motion by Mr. Pettey and second by Mr. Key, the Board voted to grant the dress rehearsal guests up to 14 hours of continuing education credit for attendance and assistance in the final development of the course. Motion carried by unanimous vote.

10.0

AB 12-53 The Board approved a Consent Settlement Order on September 17, 2015 where a Certified Residential Real Property Appraiser agreed to a private reprimand, a \$2,700 administrative fine, 15 hours of education, and surrender of Mentor Status. The violations in the report are: The opinion of value is unsupported, not credible and misleading. In the Sales Comparison approach, Licensee failed to analyze pertinent characteristics, attributes and market data for waterfront properties used a comparable sales. Licensee failed to use the analytical methods necessary to produce a credible appraisal of property located on a body of water. In the Cost approach, site improvements were included in the dwelling costs and there was no credible site improvement value developed in this approach to value. In the Sales Comparison Approach, failed to completely analyze the characteristics and attributes of properties located on bodies of water. *(Licensee stated only water front (no analyzes of the difference in the water front properties' characteristics/ attributes such as amount of water front, view, etc.)* Licensee, in the Sales Comparison Approach, analyzed market features that were not reported/supported by the data source *(MLS)*. Licensee failed to analyze some market features that were reported in the data source *(MLS)*. *(Licensee omitted/overlooked market features supported by MLS and analyzed features that were not supported by MLS.)* Licensee, in the Cost Approach section, analyzed site improvements *(fence, detached garage)* in the total estimate of cost-new, and provided for \$3,000 contributing value of the site improvements. Some of the site improvements included a boat lift, bulk head and dock, which Licensee analyzed a \$30,000 contributing market adjustment value in the Sales Comparison Approach. In the Cost Approach section, Licensee used \$3,000 for the contributing value of the site improvements. Some of the site improvements included a boat lift, bulk head and dock, which Licensee adjusted for \$30,000 in the Sales Comparison Approach. The \$3,000 used by Licensee in the Cost Approach was not a credible contributing value of the site improvements. Other site improvements not mentioned were a detached covered patio, detached storage building,

detached garage, and fence. Licensee valued site improvements at \$3,000 in the Cost Approach and \$30,000 in the Sales Comparison Approach. Using different values for the same improvements in the two approaches to value is misleading. Licensee failed to analyze pertinent characteristics and attributes that have a market reaction for the comparable sales located on bodies of water. The value in the Cost Approach is not credible. Licensee, in the Improvements/Actual Age-Effective Age section and Exterior Materials & Interior Materials sections, failed to provide sufficient information to clearly explain a home built ~1960 (*actual age of 52 years*) having an effective age of 20 years; when the condition of the exterior and interior materials were rated as average with no updates in the prior 15 years and considered as being in average physical condition. Licensee, in the Sales Comparison Approach/Comparable #1/Actual Age section, provided/analyzed the actual age as 38 years when the actual age according to the data source was 36 years. Licensee, in the Cost Approach/Opinion of Site Value section, provided the opinion of site value was by market extraction **and/or** land sales. The actual method used to determine the opinion of site value is not clear due to the use of the term **and/or** (*market extraction and land sales, market extraction or land sales*). Licensee, in the Subject/Map Reference section, failed to provide the source of the map reference stated. Licensee, in the Subject/Offered for Sale in Prior Twelve Months section, failed to indicate whether the subject property had been offered for sale during the prior twelve months. Licensee, in the Site/Dimensions section, failed to provide the complete dimensions of the subject property. Licensee, in the Cost Approach section, provided local builders and the appraiser's knowledge of the market as the source of the cost data. Licensee failed to provide the data/information, within the Approach, where the lender/client could use this data/information in the replication of the figures and calculations of the Cost Approach. Licensee, in the Cost Approach/Opinion of Site Value section, provided information the site value was derived from market extraction and/or land sales. Licensee failed to provide the supporting data/information analyzed by Licensee in the market extraction and/or land sales to arrive at the opinion of site value. Licensee failed to summarize the complete Scope of Work performed or not performed in developing the appraisal. Licensee failed to explain a valid reason for the exclusion of the Income Approach, within the appraisal report. **Violations: Ethics Rule, Conduct; Standards Rule 1-1(a), 1-1(b), 1-4(a), Rule 1-4(b)(ii), 2-1(a), 2-1(b), 2-2(b)(vii), 2-2(b)(viii); USPAP, 2012-2013 Edition.**

AB-13-56 The Board approved a Consent Settlement Order on September 17, 2015 where a Certified Residential Real Property Appraiser agreed to a \$1,000 administrative fine and 5 hours of education. The violations in the report are: Licensee failed to prepare a complete workfile for the appraisal assignment. Licensee's workfile did not contain: (1) a "true copy" of an appraisal report transmitted to the client, at the time of the appraisal assignment; (2) support of site value in the Cost Approach; (3) some of the data/information analyzed in the Cost Approach; (4) some of the data/information analyzed in the Sales Comparison Approach; and (5) plans, specifications or other document

sufficient to identify the extent and character of the proposed improvements to be completed in a "Subject to Completion" appraisal. Licensee failed to identify the complete characteristics and attributes of the subject and comparable sale properties analyzed along with analyzing supported data and cost figures. Licensee made a \$7,500 adjustment for site with no adjustments for location, view or other market difference between the Subject and comps land area.) (The \$7,500 adjustment was across the comp grid without supporting documentation. For Comparable #4 and Comparable #5 (listings) Licensee failed to analyze the active listings list to sale ratio, when the information within the appraisal report supported a list to sell adjustment of 5%. Licensee, in Comparable #2, failed to analyze a 30 x 40 metal concrete floored building equipped with water and power. Licensee, in Comparable #4/GLA section, analyzed the square footage of 1,500 square foot when the data source provided for 1,981 square feet where the source of the square footage is from an appraisal. Licensee's workfile did not support the 1,500 square feet analyzed as GLA. Licensee, in the reconciliation, failed to reconcile the relevance of the Income Approach not being employed within the appraisal assignment by not explaining the reason for the exclusion. Licensee failed to clearly and accurately set forth the written appraisal in a manner that was not misleading. Licensee, in the Neighborhood/Neighborhood Boundaries section, failed to accurately describe the neighborhood named in the Subject/Neighborhood Name section of the appraisal report. Licensee, in the Improvements/Describe Condition section, provided there were no updates in the prior 15 years when the home was under construction (*work in progress*) and less than 15 years old. Licensee failed to provide sufficient information to enable the intended user(s) of the written appraisal report to understand the report properly. Licensee, in the Site/Highest & Best Use section, failed to summarize the information that was analyzed to support Licensee's opinion and conclusions of the highest and best use of the Subject property being the present use. Licensee, in the Improvements/Describe Condition section, listed several items that needed to be completed for the home. Licensee failed to provide specific information of what was required for these items to be completed. (e.g. "Kitchen need to be completed".) Licensee, in the Improvements/Exterior/Materials/Storm Sash-Insulated and Screens sections, failed to provide the construction materials used. Licensee, in the Sales Comparison Approach/Energy Efficient Items section, provided the generic term "average" without providing the actual energy efficient items analyzed or what would be considered as "average" for energy efficient items within the local real estate market. Licensee, in the Sales Comparison Approach/Comparable #4/Sales-Transfer History section, failed to provide the relevant information of a prior sale within a year of the analyzed comparable. (*Listing comparable*) Licensee, in the Income Approach section, failed to explain the reason the Income Approach was not applicable and was excluded. Licensee, in the Cost Approach section, failed to provide support (*data/ information*) of the opinion of site value provided. Licensee, in the Comparable Photograph Addendum section, failed to provide the source of the photos that were not Licensee taken photos. (e.g. *MLS photos*) Licensee failed to summarize the scope of work

necessary to enable the intended user to be properly informed and not mislead about the research and analysis performed and also the research and analysis not performed within the appraisal. Licensee failed to summarize the reasoning that supports Licensee's analyses, opinions and conclusions within the appraisal report. Licensee failed to summarize the information analyzed to support Licensee's opinion and conclusions of the highest and best use of the Subject property being the present use. Licensee failed to summarize the information analyzed to support Licensee's opinion and conclusions of the opinion of site value. Licensee failed to explain the exclusion of the Income Approach, within the appraisal. Licensee failed to summarize support and rationale for the opinion of highest and best use developed by Licensee. **Violations: Record Keeping Rule; Standards Rule 1-4(a), 1-6(b), 2-1(a), 2-1(b), 2-2(b)(vii), 2-2(b)(viii), 2-2(b)(ix); USPAP, 2012-2013 Edition.**

Letter of Warning was issued on the following investigation for the discrepancies indicated. This disciplinary action will be considered in any future discipline proceedings:

AB-15-09 A Letter of Warning was issued to a Certified Residential Real Property Appraiser and assessed a \$250 administrative fine. Licensee's letter of engagement specified that the assignment was an FHA appraisal and under FHA guidelines the assignment can only be completed by the approved vendor as this client is appraiser specific. Licensee did not inspect the subject property yet signed a certification that said the licensee had inspected the property. Licensee gave the other appraiser credit for the inspection and all parts of the assignment but licensee never states that licensee did not inspect property. **Violations: Scope of Work Rule; Standard 2-1; USPAP, 2010-2011 Edition.**

Ms. Conway discussed with the Board the investigative status charts. Ms. Conway informed the Board 7 new complaints were received since the September 2015 Board meeting, 6 complaints were dismissed, and 3 complaints were settled, leaving a total of 31 open complaints.

Mr. Eslava charged the Disciplinary Committee to be sure they agree with all charges of violations in each Probable Cause. He stressed that any charges the Committee member disagrees with should be discussed and possibly voted on in a Board meeting.

11.0 Probable Cause Report **AB-15-04** was deferred to the January Board meeting.

The Board reviewed Probable Cause Report **AB-15-07**: With Mr. Butler and Mr. Key recusing, on motion by Mr. Cotter 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-15-08**: With Mr. Key, Mr. Eslava and Mr. Pettay recusing, on motion by Ms. McClammy and

second by Ms. Frost, the Board voted that probable cause does exist and to set this case for hearing. Mr. Butler abstained. Those in favor were Ms. McClammy, Ms. Frost, Mr. Baker, Mr. Watson and Mr. Cotter. Motion carried.

The Board reviewed Probable Cause Report **AB-15-13**: With Mr. Butler and Mr. Key recusing, on motion by Ms. Frost 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 Probable Cause Report **AB-15-14**: With Mr. Baker recusing, on motion by Ms. Frost and second by Mr. Pettey, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-15**: With Mr. Butler recusing, on motion by Mr. Pettey and second by Mr. Baker, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-17 companion case to AB15-18**: With Mr. Baker recusing, on motion by Mr. Pettey and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-18 companion case to AB15-17**: With Mr. Baker recusing, on motion by Mr. Pettey and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-22**: With Mr. Baker recusing, on motion by Mr. Pettey and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

12.0 There were no negotiated settlements to discuss.

13.0 The following reciprocal licenses were issued since the September Board meeting: Jana Elizabeth Anderson ('G' TX), Edward Fred Boesch ('R' FL), Jennifer Diane Boyer ('R' FL), John Franklin Cottrell ('G' TX), Lynda A. Gallagher ('G' IL), Steven Andrew Griffith ('G' FL), Haynes Templeton Hendry ('G' FL), Tony M. Jenkins ('G' NC), Karen Kay Jones ('R' TX), Sung Lee ('G' NJ), Glenda Lenart-Michaels ('G' TX), David Lee Maul ('G' GA), Brian Roger Messer ('R' WI), Ben Allen Parker ('G' FL), Mark F. Pomykacz ('G' NJ), Edward McKnight Sowell ('G' GA), Rachel Oliver Treadwell ('R' GA) and David Russell Walden ('G' IL).

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 Ms. Conway discussed the Final Adoption of 780-X-14-.02 'Informal Disciplinary Procedure'. On motion by Mr. Baker and Ms. Frost, the Board voted to adopt the rules as published, and instructed Ms. Conway to file the rules for final adoption. Motion carried by unanimous vote.

Mrs. Brooks discussed the AMC application and renewal fees and grace period for renewing AMC licenses with the Board. Ms. Frost will research late fees charged by other states and report back to the Board. This matter was deferred to the January 2016 Board meeting.

Ms. Conway discussed the AMC response to the change in the Administrative Code. Ms. Frost discussed the possibility of the Real Estate Valuation Advocacy Association filing a lawsuit against the Board over the Board's fee study into customary and reasonable fees.

Ms. Conway will research liability insurance for Board members.

AARO attendees discussed the meeting and various topics covered.

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

- 18.0 Mr. Pettey discussed decreasing license fees. On motion by Mr. Pettey and second by Mr. Baker, the Board voted to decrease license fees for appraisers \$50 per year effective August 1, 2016. Members in favor of the motion were Mr. Key, Mr. Butler, Mr. Baker, Mr. Pettey, Mr. Watson, and Mr. Cotter. Members against the motion were Ms. McClammy and Ms. Frost. Motion carried.

- 19.0 At 12:03 p.m., on motion by Mr. Watson and second by Mr. Baker, the Board voted to adjourn the regular Board meeting. Motion carried by unanimous vote. The Board's tentative meeting schedule for 2016 is January 21, 2016, March 17, 2016, May 19, 2016, 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